

SESSION LAWS OF MISSOURI

Passed during the

NINETY-SECOND GENERAL ASSEMBLY

Second Extraordinary Session, which convened at the City of Jefferson,
Monday, September 8, 2003, and adjourned September 12, 2003.

Second Regular Session, which convened at the City of Jefferson,
Wednesday, January 7, 2004, and adjourned May 30, 2004.

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Published by the

MISSOURI JOINT COMMITTEE ON LEGISLATIVE RESEARCH

In compliance with Sections 2.030 and 2.040,
Revised Statutes of Missouri, 2000
and

Senate Concurrent Resolution No. 30
Second Regular Session
Ninety-second General Assembly

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2003 - 2004

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HOW TO USE THE SESSION LAWS

The first pages contain the *Popular Name Table*, the *Table of Sections Affected by 2003 Legislation* from the Second Extraordinary Session, and the *Table of Sections Affected by 2004 Legislation* from the Second Regular Session.

The following pages contain the text of the bill from the Second Extraordinary Session, as well as the text of bills whose vetoes were overridden from the First Regular Session.

The text of all 2004 House and Senate Bills and the Concurrent Resolutions appear next. The appropriation bills are presented first, with all others following in numerical order.

A subject index is included at the end of this volume.

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VETO SESSION

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Authority for Publishing Session Laws and Resolutions

Section 2.030, Revised Statutes of Missouri, 2000. — General Assembly to provide for printing and binding of laws. — The sixty-fourth general assembly and each general assembly thereafter, whether in regular or extraordinary session, shall by concurrent resolution adopted by both houses, provide for collating, indexing, printing and binding all laws and resolutions of the session and all measures approved by the people since the last publication of the laws and resolutions in the manner directed by the resolution. The general assembly may by concurrent resolution require that all laws passed by the general assembly and all resolutions adopted prior to any recess of the general assembly for a period of thirty days or more shall be collated, indexed, bound and distributed as provided by law, and any edition published pursuant to the concurrent resolution is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

Section 2.040, Revised Statutes of Missouri, 2000. — Duties of Legislative Research in printing and binding. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of such laws and resolutions, giving the date of the approval or adoption thereof for printing in accordance with the directions of the general assembly as given by concurrent resolution. The joint committee on legislative research shall edit, headnote, collate, index the laws, resolutions and constitutional amendments, and shall compare the proof sheets of the printed copies with the original rolls, note all errors which have been committed, if any, and cause errata thereof to be annexed to the completed printed copies, and the revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

SENATE CONCURRENT RESOLUTION NO. 30, 2004 General Assembly.—BE IT RESOLVED by the Senate of the Ninety-second General Assembly, the House of Representatives concurring therein, that the Missouri Committee on Legislative Research shall prepare and cause to be collated, indexed, printed and bound all acts and resolutions of the Ninety-second General Assembly, Second Regular Session, and shall examine the printed copies and compare them with and correct the same by the original rolls, together with an attestation under the hand of the Revisor of Statutes that she has compared the same with the original rolls in her office and has corrected the same thereby; and

BE IT FURTHER RESOLVED that the size and quality of the paper and binding shall be substantially the same as used in prior session laws and the size and style of type shall be determined by the Revisor of Statutes; and

BE IT FURTHER RESOLVED that the Joint Committee on Legislative Research is authorized to print and bind copies of the acts and resolutions of the Ninety-second General Assembly, Second Regular Session, with appropriate indexing; and

BE IT FURTHER RESOLVED that the Revisor of Statutes is authorized to determine the number of copies to be printed.

ATTESTATION

STATE OF MISSOURI)
) ss.
City of Jefferson)

I, Patricia L. Buxton, Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-second General Assembly of the State of Missouri, convened in second extraordinary session and second regular session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this twentieth day of July A.D. two thousand four.

PATRICIA L. BUXTON
REVISOR OF STATUTES

EFFECTIVE DATE OF LAWS

Section 29, Article III of the Constitution provides:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

The Ninety-second General Assembly, Second Regular Session, convened Wednesday, January 7, 2004, and adjourned May 30, 2004. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2004.

JOINT RESOLUTIONS AND INITIATIVE PETITIONS

Section 2(b), Article XII of the Constitution provides:

“All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.”

The Ninety-second General Assembly, Second Regular Session, passed one Joint Resolution. The Secretary of State's office certified one initiative petition. Resolutions are to be published as provided in Section 116.340, RSMo 2000, which reads:

“116.340. Publication of approved measures. — When a statewide ballot measure is approved by the voters, the secretary of state* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.”

*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2004 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.



The Joint Committee on Legislative Research is pleased to state that the *2004 Session Laws* is produced with soy-based ink.

POPULAR NAME TABLE

2004 LEGISLATION

Climbing Walls, HB 1403
Commonsense Consumption Act, HB 1115
Courtroom Renovation, HB 798
Crossburning, HB 1074
DNA Testing of Offenders, SB 1000
Foster Care Bill, HB 1453
Glass Containers on Boats, HB 841
Mental Health Parity, HB 855
Open Records, SB 1020
Prescription Drug Donation Program, SB 1160
Sexually-oriented Billboards, SB 870
State Employees Overtime Pay, HB 1548
Tax Credit Accountability Act of 2004, SB 1099
Theater, Cultural Arts, and Entertainment District Act, HB 833

TABLE OF SECTIONS AFFECTED
BY
2003 SECOND EXTRAORDINARY SESSION

SECTION	ACTION	BILL		SECTION	ACTION	BILL
660.300	Amended	SB 4		660.317	Amended	SB 4

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**TABLE OF SECTIONS AFFECTED
BY
2004 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
2.030	Amended	SB 1211		32.105	Amended	SB 1155
2.040	Amended	SB 1211		32.110	Amended	SB 1155
2.050	Amended	SB 1211		33.103	Amended	HB 959
2.060	Amended	SB 1211		34.010	Amended	SB 1249
3.075	New	SB 884		34.070	Amended	SB 1249
3.130	Amended	SB 1211		34.363	New	SB 1249
8.235	Amended	HB 1599		37.310	Amended	HB 1347
8.237	New	HB 1599		37.320	Amended	HB 1347
10.095	New	HB 1209		37.360	Amended	HB 1347
21.190	Repealed	HB 1444		37.699	New	HB 1453
21.795	Amended	SB 1233		37.700	New	HB 1453
21.810	Amended	SB 1099		37.705	New	HB 1453
21.820	New	HB 1599		37.710	New	HB 1453
26.740	Repealed	HB 1453		37.715	New	HB 1453
30.750	Amended	SB 1155		37.725	New	HB 1453
30.753	Amended	SB 1155		37.730	New	HB 1453
30.756	Amended	SB 1155		42.014	New	SB 1365
30.758	Amended	SB 1155		42.015	New	SB 1365
30.760	Amended	SB 1155		43.060	Amended	SB 859
30.765	Amended	SB 1155		43.250	Amended	HB 1660
32.057	Amended	SB 1099		43.251	Amended	HB 1660
32.087	Amended	SB 1394		43.503	Amended	HB 1453

SECTION	ACTION	BILL	SECTION	ACTION	BILL
43.530	Amended	HB 1453	64.342	Amended	HB 1187
43.540	Amended	HB 1055	64.520	Amended	HB 795
43.540	Amended	HB 1453	64.520	Amended	HB 1377
48.020	Amended	HB 950	64.805	Amended	HB 795
48.030	Amended	HB 950	64.805	Amended	HB 1377
49.272	Amended	HB 795	64.825	Amended	HB 795
49.650	Amended	HB 795	64.825	Amended	HB 1362
50.339	Amended	HB 795	64.930	Amended	HB 795
50.339	Amended	SB 782	64.930	Amended	SB 1394
50.515	Amended	HB 795	67.085	New	SB 1093
50.550	Amended	HB 1055	67.320	New	HB 795
50.565	New	HB 1055	67.329	New	HB 822
50.740	Amended	HB 795	67.402	Amended	SB 1114
50.1110	Amended	HB 795	67.456	New	HB 1321
50.1140	Amended	HB 795	67.457	Amended	HB 1321
50.1250	Amended	HB 795	67.469	Amended	HB 1321
52.269	Amended	HB 795	67.478	Repealed	HB 795
52.271	Amended	HB 795	67.478	Repealed	HB 833
54.033	New	SB 782	67.478	Repealed	SB 1155
54.150	Amended	SB 782	67.481	Repealed	HB 795
54.170	Amended	SB 782	67.481	Repealed	HB 833
54.261	Amended	SB 782	67.481	Repealed	SB 1155
56.750	Amended	SB 1211	67.484	Repealed	HB 795
57.260	Amended	SB 1211	67.484	Repealed	HB 833
59.331	New	HB 795	67.484	Repealed	SB 1155
59.480	Amended	HB 1634	67.487	Repealed	HB 795

SECTION	ACTION	BILL	SECTION	ACTION	BILL
67.487	Repealed	HB 833	67.1754	Amended	HB 795
67.487	Repealed	SB 1155	67.1754	Amended	HB 833
67.490	Repealed	HB 795	67.1754	Amended	SB 732
67.490	Repealed	HB 833	67.1754	Amended	SB 1155
67.490	Repealed	SB 1155	67.1800	Amended	SB 1233
67.493	Repealed	HB 795	67.1808	Amended	SB 1233
67.493	Repealed	HB 833	67.1813	New	SB 1233
67.493	Repealed	SB 1155	67.1818	Amended	SB 1233
67.506	New	SB 960	67.1819	New	SB 1233
67.578	New	SB 758	67.2000	New	HB 795
67.793	Amended	HB 795	67.2000	New	HB 833
67.793	Amended	HB 833	67.2015	Repealed	SB 758
67.797	Amended	HB 1494	67.2500	New	HB 795
67.799	Amended	HB 795	67.2500	New	HB 833
67.799	Amended	HB 833	67.2500	New	SB 732
67.1303	New	SB 1155	67.2500	New	SB 1155
67.1360	Amended	HB 795	67.2505	New	HB 795
67.1360	Amended	SB 758	67.2505	New	HB 833
67.1401	Amended	HB 795	67.2505	New	SB 732
67.1401	Amended	SB 1155	67.2505	New	SB 1155
67.1461	Amended	SB 1155	67.2510	New	HB 795
67.1545	Amended	SB 1155	67.2510	New	HB 833
67.1706	Amended	HB 795	67.2510	New	SB 732
67.1706	Amended	HB 833	67.2510	New	SB 1155
67.1706	Amended	SB 732	67.2515	New	HB 795
67.1706	Amended	SB 1155	67.2515	New	HB 833

SECTION	ACTION	BILL	SECTION	ACTION	BILL
67.2515	New	SB 732	94.270	Amended	SB 758
67.2515	New	SB 1155	94.270	Amended	SB 1155
67.2520	New	HB 795	94.270	Amended	SB 1394
67.2520	New	HB 833	94.578	New	SB 1155
67.2520	New	SB 732	94.834	Amended	HB 1456
67.2520	New	SB 1155	94.836	New	HB 1456
67.2525	New	HB 795	94.839	New	SB 1394
67.2525	New	HB 833	94.902	New	SB 1394
67.2525	New	SB 732	95.280	Amended	HB 1398
67.2525	New	SB 1155	95.285	Amended	HB 1398
67.2530	New	HB 795	99.848	New	HB 1529
67.2530	New	HB 833	99.918	Amended	SB 1331
67.2530	New	SB 732	99.1000	Amended	SB 1155
67.2530	New	SB 1155	99.1018	Amended	SB 1155
70.225	New	HB 795	100.255	Amended	SB 1155
70.300	Amended	SB 951	100.260	Amended	SB 1155
71.285	Amended	HB 947	100.270	Amended	SB 1155
71.620	Amended	SB 1155	100.277	New	SB 1155
78.590	Amended	HB 1047	100.281	Amended	SB 1155
82.291	Amended	SB 1114	100.293	New	SB 1155
84.510	Amended	SB 952	100.710	Amended	HB 1182
84.560	Amended	SB 952	100.710	Amended	SB 1155
86.223	Amended	HB 1217	100.710	Amended	SB 1394
86.690	Amended	HB 1217	100.850	Amended	HB 1182
86.690	Amended	SB 1055	100.850	Amended	SB 1155
89.410	Amended	HB 795	100.850	Amended	SB 1394

SECTION	ACTION	BILL	SECTION	ACTION	BILL
104.020	Amended	HB 1440	135.215	Amended	SB 1099
104.050	Amended	HB 1440	135.215	Amended	SB 1155
104.080	Amended	HB 1440	135.262	New	SB 1155
104.081	New	HB 1440	135.286	New	SB 1155
104.090	Amended	HB 1440	135.327	Amended	HB 1453
104.103	Amended	HB 1440	135.530	Amended	SB 1155
104.110	Amended	HB 1440	135.546	New	SB 1155
104.170	Amended	HB 1440	135.750	Amended	SB 1394
104.180	Amended	HB 1440	135.766	Amended	HB 1603
104.255	Amended	HB 1440	135.800	New	SB 1099
105.055	Amended	HB 1548	135.802	New	SB 1099
105.454	Amended	SB 968	135.805	New	SB 1099
105.711	Amended	SB 974	135.810	New	SB 1099
105.711	Amended	SB 1211	135.815	New	SB 1099
105.711	Amended	SB 1247	135.825	New	SB 1099
105.935	New	HB 1548	135.830	New	SB 1099
109.400	New	HB 1363	135.900	New	SB 1155
109.400	New	SB 1172	135.903	New	SB 1155
109.410	New	HB 1363	135.910	New	SB 1155
109.410	New	SB 1172	135.911	New	SB 1155
110.070	Amended	SB 1320	135.1050	New	SB 1155
110.080	Amended	SB 1320	135.1055	New	SB 1155
115.607	Amended	HB 988	135.1057	New	SB 1155
135.155	New	SB 1155	135.1060	New	SB 1155
135.207	Amended	SB 1155	135.1065	New	SB 1155
135.212	New	SB 1155	135.1070	New	SB 1155

SECTION	ACTION	BILL	SECTION	ACTION	BILL
135.1075	New	SB 1155	143.241	Amended	SB 1394
135.1078	New	SB 1155	143.431	Amended	SB 1394
136.055	Amended	SB 1285	143.605	New	HB 1290
137.073	Amended	SB 960	143.782	Amended	SB 1394
137.078	New	SB 1394	144.025	Amended	SB 1233
137.100	Amended	HB 795	144.025	Amended	SB 1394
137.100	Amended	HB 1182	144.030	Amended	HB 795
137.101	Amended	SB 1394	144.030	Vetoed	HB 1099
137.106	New	SB 730	144.030	Amended	HB 1182
137.115	Amended	SB 960	144.083	Amended	SB 1394
137.115	Amended	SB 1394	144.157	Amended	SB 1394
137.298	Amended	HB 795	144.615	Amended	HB 795
137.298	Amended	SB 1233	144.615	Amended	HB 1182
137.298	Amended	SB 1394	144.757	Amended	HB 795
137.505	Amended	SB 1394	144.757	Amended	HB 833
137.720	Amended	HB 795	144.757	Amended	SB 1155
137.720	Amended	SB 960	144.759	Amended	HB 795
138.011	New	HB 795	144.759	Amended	HB 833
139.031	Amended	SB 1012	144.759	Amended	SB 1155
140.340	Amended	SB 1012	148.330	Amended	HB 1182
140.730	Amended	SB 1012	148.330	Amended	SB 740
141.710	Amended	HB 975	160.254	Amended	SB 968
141.760	Amended	HB 975	160.261	Amended	SB 945
141.790	Amended	HB 975	160.261	Amended	SB 968
143.081	Amended	SB 1394	160.480	New	HB 1070
143.121	Amended	SB 1394	160.518	Amended	SB 1080

SECTION	ACTION	BILL	SECTION	ACTION	BILL
160.538	Repealed	SB 1080	167.020	Amended	HB 1453
160.570	Amended	SB 968	167.020	Amended	SB 968
160.720	Amended	SB 1080	167.031	Amended	SB 968
161.089	New	SB 968	167.051	Amended	SB 968
161.209	New	SB 968	167.052	New	SB 968
162.032	New	SB 968	167.166	New	SB 968
162.261	Amended	SB 968	167.171	Amended	SB 968
163.031	Amended	SB 968	168.104	Amended	SB 968
163.036	Amended	SB 968	168.124	Amended	SB 968
163.191	Amended	SB 1091	168.126	Amended	SB 968
165.301	Amended	SB 968	168.211	Amended	SB 968
166.415	Amended	HB 959	168.283	New	HB 1453
166.435	Amended	HB 959	168.500	Amended	SB 968
166.500	New	HB 959	168.515	Amended	SB 968
166.505	New	HB 959	169.270	Amended	HB 1502
166.510	New	HB 959	169.270	Amended	SB 1242
166.515	New	HB 959	169.291	Amended	HB 1502
166.520	New	HB 959	169.291	Amended	SB 1242
166.525	New	HB 959	169.295	Amended	HB 1502
166.530	New	HB 959	169.295	Amended	SB 1242
166.540	New	HB 959	169.311	Amended	HB 1502
166.545	New	HB 959	169.311	Amended	SB 1242
166.550	New	HB 959	169.313	Repealed	HB 1502
166.555	New	HB 959	169.313	Repealed	SB 1242
166.556	New	HB 959	169.322	Amended	HB 1502
166.557	New	HB 959	169.322	Amended	SB 1242

SECTION	ACTION	BILL	SECTION	ACTION	BILL
169.324	Amended	HB 1502	190.346	New	SB 1329
169.324	Amended	SB 1242	190.348	New	SB 1329
169.328	Amended	HB 1502	191.748	New	HB 1453
169.328	Amended	SB 1242	191.1015	New	SB 1274
170.037	New	SB 945	192.016	Amended	HB 1453
171.053	New	SB 968	192.020	Amended	SB 1279
172.360	Amended	SB 968	192.021	New	SB 1279
173.196	Amended	SB 1099	192.067	Amended	SB 1279
173.796	Amended	SB 1099	192.131	New	SB 1279
174.453	Amended	SB 1080	192.138	Amended	SB 1279
178.980	New	SB 1155	192.665	Amended	SB 1279
178.981	New	SB 1155	192.667	Amended	SB 1279
178.982	New	SB 1155	193.165	Amended	HB 1136
178.983	New	SB 1155	193.165	Vetoed	SB 799
178.984	New	SB 1155	193.225	Amended	HB 1634
181.021	Amended	HB 1347	193.245	Amended	HB 1634
181.022	New	HB 1347	193.255	Amended	HB 1136
181.100	Amended	HB 1347	193.255	Vetoed	SB 799
181.110	Amended	HB 1347	193.265	Amended	HB 795
181.120	Repealed	HB 1347	194.375	New	HB 1136
181.130	Amended	HB 1347	194.375	Vetoed	SB 799
190.092	Amended	HB 1195	194.378	New	HB 1136
190.133	Amended	HB 1195	194.378	Vetoed	SB 799
190.306	New	HB 795	194.381	New	HB 1136
190.342	New	SB 1329	194.381	Vetoed	SB 799
190.344	New	SB 1329	194.384	New	HB 1136

SECTION	ACTION	BILL	SECTION	ACTION	BILL
194.384	Vetoed	SB 799	207.085	New	HB 1453
194.387	New	HB 1136	208.152	Amended	SB 1003
194.387	Vetoed	SB 799	208.204	Amended	SB 1003
194.390	New	HB 1136	208.225	New	SB 1123
194.390	Vetoed	SB 799	208.647	New	HB 1453
195.140	Amended	HB 1427	209.321	Amended	SB 968
195.410	Amended	HB 1427	209.322	Amended	SB 1122
196.970	New	SB 1160	209.323	Amended	SB 1122
196.973	New	SB 1160	210.025	Amended	HB 1453
196.976	New	SB 1160	210.025	Amended	SB 762
196.979	New	SB 1160	210.102	Amended	HB 1453
196.981	New	SB 1160	210.108	New	HB 1453
196.984	New	SB 1160	210.109	Amended	HB 1453
197.150	New	SB 1279	210.110	Amended	HB 1453
197.152	New	SB 1279	210.111	New	HB 1453
197.154	New	SB 1279	210.112	New	HB 1453
197.156	New	SB 1279	210.113	New	HB 1453
197.158	New	SB 1279	210.117	New	HB 1453
197.160	New	SB 1279	210.127	New	HB 1453
197.162	New	SB 1279	210.145	Amended	HB 1453
197.165	New	SB 1279	210.145	Amended	SB 945
197.293	Amended	SB 1279	210.145	Amended	SB 968
197.294	New	SB 1279	210.147	New	HB 1453
205.900	Amended	HB 1631	210.150	Amended	HB 1453
207.050	Amended	HB 1453	210.152	Amended	HB 1453
207.060	Amended	HB 1453	210.153	Amended	HB 1453

SECTION	ACTION	BILL	SECTION	ACTION	BILL
210.160	Amended	HB 1453	211.032	Amended	HB 1453
210.183	Amended	HB 1453	211.038	New	HB 1453
210.187	New	HB 1453	211.059	Amended	HB 1453
210.188	New	HB 1453	211.141	Amended	SB 1211
210.201	Amended	HB 1453	211.171	Amended	HB 1453
210.211	Amended	HB 1453	211.181	Amended	HB 1453
210.482	New	HB 1453	211.319	New	HB 1453
210.482	New	SB 762	211.321	Amended	HB 1453
210.487	New	HB 1453	211.393	Amended	SB 1195
210.487	New	SB 762	217.375	Amended	SB 921
210.518	Amended	HB 1453	221.070	Amended	HB 1188
210.535	New	HB 1453	226.030	Amended	SB 1233
210.542	New	HB 1453	226.060	Amended	SB 1233
210.542	New	SB 762	226.092	Amended	HB 1285
210.565	Amended	HB 1453	226.092	Amended	SB 1233
210.565	Amended	SB 762	226.531	New	SB 870
210.760	Amended	HB 1453	227.120	Amended	SB 1233
210.760	Amended	SB 762	227.322	New	SB 1006
210.762	New	HB 1453	227.339	New	HB 960
210.762	New	SB 762	227.345	New	SB 767
210.764	New	SB 762	227.346	New	HB 826
210.903	Amended	HB 1453	227.346	New	HB 1029
210.909	Amended	HB 1453	227.347	New	HB 826
211.031	Amended	HB 1453	227.348	New	HB 1149
211.031	Amended	SB 945	227.349	New	HB 1029
211.031	Amended	SB 1211	227.350	New	HB 1029

SECTION	ACTION	BILL	SECTION	ACTION	BILL
227.351	New	HB 960	251.440	Amended	HB 1440
227.352	New	HB 1442	251.440	Amended	SB 1130
227.353	New	HB 1029	258.100	Amended	SB 810
227.357	New	HB 960	260.335	Amended	SB 1040
229.340	Amended	HB 795	260.370	Amended	SB 901
233.295	Amended	HB 895	260.370	Amended	SB 1040
233.295	Amended	SB 769	260.375	Amended	SB 1040
234.707	New	HB 826	260.380	Amended	SB 1040
234.707	New	HB 960	260.475	Amended	SB 1040
238.208	New	HB 1107	260.479	Amended	SB 1040
245.015	Amended	HB 795	260.831	Amended	HB 795
245.015	Amended	HB 1207	261.115	New	SB 740
245.060	Amended	HB 795	261.256	New	SB 740
245.060	Amended	HB 1207	261.259	New	SB 740
245.095	Amended	HB 795	263.534	Amended	SB 740
245.095	Amended	HB 1207	265.471	New	HB 1192
246.305	Amended	HB 795	265.475	New	SB 740
246.305	Amended	HB 1207	267.470	Repealed	HB 1192
247.040	Amended	SB 987	267.470	Repealed	SB 740
247.085	Amended	SB 987	267.472	Repealed	HB 1192
249.1150	New	HB 1433	267.472	Repealed	SB 740
249.1152	New	HB 1433	267.475	Repealed	HB 1192
249.1154	New	HB 1433	267.475	Repealed	SB 740
249.1155	New	HB 1433	267.480	Repealed	HB 1192
251.255	New	HB 1440	267.480	Repealed	SB 740
251.255	New	SB 1130	267.485	Repealed	HB 1192

SECTION	ACTION	BILL	SECTION	ACTION	BILL
267.485	Repealed	SB 740	267.550	Repealed	SB 740
267.490	Repealed	HB 1192	267.551	Repealed	HB 1192
267.490	Repealed	SB 740	267.551	Repealed	SB 740
267.495	Repealed	HB 1192	267.552	Repealed	HB 1192
267.495	Repealed	SB 740	267.552	Repealed	SB 740
267.500	Repealed	HB 1192	267.553	Repealed	HB 1192
267.500	Repealed	SB 740	267.553	Repealed	SB 740
267.505	Repealed	HB 1192	267.554	Repealed	HB 1192
267.505	Repealed	SB 740	267.554	Repealed	SB 740
267.510	Repealed	HB 1192	267.555	Repealed	HB 1192
267.510	Repealed	SB 740	267.555	Repealed	SB 740
267.515	Repealed	HB 1192	267.556	Repealed	HB 1192
267.515	Repealed	SB 740	267.556	Repealed	SB 740
267.520	Repealed	HB 1192	278.258	Amended	HB 1126
267.520	Repealed	SB 740	285.300	Amended	HB 1268
267.525	Repealed	HB 1192	288.030	Amended	HB 1268
267.525	Repealed	SB 740	288.032	Amended	HB 1268
267.531	Repealed	HB 1192	288.034	Amended	HB 1268
267.531	Repealed	SB 740	288.036	Amended	HB 1268
267.535	Repealed	HB 1192	288.038	Amended	HB 1268
267.535	Repealed	SB 740	288.040	Amended	HB 1268
267.540	Repealed	HB 1192	288.045	New	HB 1268
267.540	Repealed	SB 740	288.050	Amended	HB 1268
267.545	Repealed	HB 1192	288.060	Amended	HB 1268
267.545	Repealed	SB 740	288.090	Amended	HB 1268
267.550	Repealed	HB 1192	288.100	Amended	HB 1268

SECTION	ACTION	BILL	SECTION	ACTION	BILL
288.110	Amended	HB 1268	301.025	Amended	SB 1394
288.120	Amended	HB 1268	301.041	Amended	HB 928
288.121	Amended	HB 1268	301.041	Amended	SB 1233
288.122	Amended	HB 1268	301.069	Amended	SB 757
288.128	Amended	HB 1268	301.069	Amended	SB 1233
288.175	New	HB 1268	301.129	Amended	SB 1233
288.290	Amended	HB 1268	301.130	Amended	SB 1233
288.310	Amended	HB 1268	301.132	Amended	SB 1233
288.330	Amended	HB 1268	301.134	New	SB 1233
288.380	Amended	HB 1268	301.141	Amended	SB 1233
288.395	New	HB 1268	301.142	Amended	SB 1233
288.397	New	HB 1268	301.143	Amended	SB 1233
288.397	Repealed	SB 966	301.144	Amended	SB 1233
288.398	New	HB 1268	301.190	Amended	SB 1233
288.401	New	SB 966	301.193	Amended	SB 1233
288.500	Amended	HB 1268	301.196	New	SB 1233
288.501	New	HB 1268	301.197	New	SB 1233
288.501	New	SB 966	301.198	New	SB 1233
288.502	New	HB 1268	301.217	Amended	HB 1284
288.502	New	SB 966	301.217	Amended	SB 1233
301.010	Amended	HB 996	301.219	Amended	SB 1233
301.010	Amended	HB 1284	301.221	Amended	SB 1233
301.010	Amended	SB 757	301.227	Amended	SB 1233
301.010	Amended	SB 1233	301.280	Amended	SB 1233
301.020	Amended	SB 1233	301.290	Amended	SB 1233
301.025	Amended	SB 1233	301.390	Amended	SB 824

SECTION	ACTION	BILL	SECTION	ACTION	BILL
301.444	Amended	SB 1233	301.3130	New	HB 1405
301.463	Amended	SB 1233	301.3130	New	SB 1233
301.469	Amended	SB 1233	301.3131	New	SB 1233
301.472	Amended	HB 1508	301.3132	New	HB 1449
301.562	Amended	HB 1259	301.3132	New	SB 1233
301.562	Amended	SB 1233	301.3133	New	SB 1233
301.566	Amended	HB 1288	301.3137	New	SB 1233
301.566	Amended	SB 1233	301.3139	New	HB 1317
301.681	Amended	HB 1511	301.3139	New	SB 1233
301.681	Amended	SB 1233	301.3142	New	SB 1233
301.2999	Amended	HB 928	301.3143	New	SB 1233
301.2999	Amended	SB 1233	301.3144	New	SB 1233
301.3032	New	SB 1233	301.3146	New	SB 1233
301.3074	New	SB 1233	301.3147	New	SB 1233
301.3078	New	HB 1449	301.3148	New	HB 1405
301.3079	New	SB 1233	301.3150	New	SB 1233
301.3098	Amended	SB 1233	301.3152	New	SB 1233
301.3106	New	SB 1233	301.3154	New	SB 1233
301.3122	New	SB 1233	301.3155	New	SB 1233
301.3124	New	SB 1233	301.3999	New	SB 1233
301.3125	New	SB 1233	302.130	Amended	SB 1233
301.3126	New	HB 1167	302.171	Amended	SB 1233
301.3126	New	SB 1233	302.173	Amended	SB 1233
301.3128	New	HB 1114	302.177	Amended	SB 1233
301.3128	New	SB 1233	302.178	Amended	HB 928
301.3129	New	HB 1114	302.181	Amended	SB 1233

SECTION	ACTION	BILL	SECTION	ACTION	BILL
302.225	Amended	SB 1233	304.022	Amended	SB 788
302.230	Amended	SB 1233	304.029	New	HB 996
302.233	New	SB 1233	304.029	New	SB 1233
302.272	Amended	HB 1453	304.031	New	SB 1233
302.272	Amended	SB 968	304.035	Amended	SB 1233
302.272	Amended	SB 1233	304.070	Amended	SB 1233
302.273	New	SB 1233	304.154	New	SB 1233
302.302	Amended	SB 1233	304.155	Amended	SB 1233
302.309	Amended	SB 1233	304.156	Amended	HB 996
302.345	New	SB 1233	304.156	Amended	SB 1233
302.347	New	SB 1233	304.157	Amended	SB 1233
302.700	Amended	SB 1233	304.170	Amended	SB 1233
302.720	Amended	SB 1233	304.190	Amended	SB 1233
302.725	Amended	SB 1233	304.601	New	SB 1233
302.727	New	SB 1233	306.114	Amended	HB 841
302.735	Amended	SB 1233	306.127	Amended	SB 1259
302.740	Amended	SB 1233	306.165	Amended	SB 920
302.755	Amended	SB 1233	306.167	Amended	SB 920
302.756	Amended	SB 1233	306.169	New	SB 920
302.760	Amended	SB 1233	306.325	New	HB 841
302.775	Amended	SB 757	306.458	Amended	HB 1511
302.775	Amended	SB 788	306.461	Amended	HB 1511
304.010	Amended	HB 795	306.461	Amended	SB 1233
304.013	Amended	HB 996	306.530	Amended	SB 1233
304.013	Amended	SB 1233	307.020	Amended	SB 1233
304.022	Amended	SB 757	307.040	Amended	SB 1233

SECTION	ACTION	BILL	SECTION	ACTION	BILL
307.100	Amended	SB 772	319.139	Amended	SB 901
307.100	Amended	SB 1233	320.094	Amended	SB 1196
307.125	Amended	SB 956	320.106	Amended	SB 1196
307.127	Amended	SB 956	320.111	Amended	SB 1196
307.172	Amended	HB 996	320.116	Amended	SB 1196
307.175	Amended	SB 757	320.126	Amended	SB 1196
307.175	Amended	SB 788	320.131	Amended	SB 1196
307.366	Amended	HB 996	320.136	Amended	SB 1196
307.375	Amended	HB 996	320.146	Amended	SB 1196
307.375	Amended	SB 899	320.151	Amended	SB 1196
307.400	Amended	SB 1233	320.161	Amended	SB 1196
311.486	New	SB 1062	321.554	Amended	HB 795
315.015	Amended	SB 842	321.556	Amended	HB 795
316.203	Amended	HB 1403	324.010	Amended	HB 978
316.204	Amended	HB 1403	324.200	Amended	SB 1122
316.210	Amended	HB 1403	324.203	Amended	SB 1122
316.213	New	HB 1403	324.205	Amended	SB 1122
316.218	Amended	HB 1403	324.206	New	SB 1122
316.230	Amended	HB 1403	324.210	Amended	SB 1122
316.233	Amended	HB 1403	324.215	Amended	SB 1122
316.238	New	HB 1403	324.216	New	SB 1122
317.011	Amended	SB 1122	324.400	Amended	SB 1122
319.109	Amended	SB 901	324.402	New	SB 1122
319.125	Amended	SB 901	324.403	Amended	SB 1122
319.127	Amended	SB 901	324.409	Amended	SB 1122
319.137	Amended	SB 901	324.415	Amended	SB 1122

SECTION	ACTION	BILL	SECTION	ACTION	BILL
324.418	Amended	SB 1122	332.032	New	SB 1122
324.421	Amended	SB 1122	332.051	Amended	SB 1122
324.427	Amended	SB 1122	332.069	New	HB 970
324.430	Amended	SB 1122	332.071	Amended	SB 1122
324.433	Amended	SB 1122	332.081	Amended	SB 1122
324.526	New	SB 1122	332.086	Amended	SB 1122
324.930	New	HB 1195	332.111	Amended	SB 1122
324.933	New	HB 1195	332.121	Amended	SB 1122
324.936	New	HB 1195	332.122	New	SB 1122
324.939	New	HB 1195	332.171	Amended	HB 970
324.942	New	HB 1195	332.181	Amended	HB 970
324.945	New	HB 1195	332.261	Amended	HB 970
324.948	New	HB 1195	332.321	Amended	HB 970
324.951	New	HB 1195	332.341	Repealed	HB 970
324.954	New	HB 1195	332.361	Amended	HB 1422
324.957	New	HB 1195	334.100	Amended	SB 1122
324.960	New	HB 1195	334.100	Amended	SB 1181
324.965	New	HB 1195	334.506	Amended	SB 1122
328.075	New	SB 1122	334.506	Amended	SB 1181
328.080	Amended	SB 1122	334.530	Amended	SB 1122
329.010	Amended	HB 1622	334.530	Amended	SB 1181
331.010	Amended	HB 1246	334.540	Amended	SB 1122
331.030	Amended	HB 1246	334.540	Amended	SB 1181
331.050	Amended	HB 1246	334.550	Amended	SB 1122
331.110	New	HB 1246	334.550	Amended	SB 1181
331.115	New	HB 1246	334.655	Amended	SB 1122

SECTION	ACTION	BILL	SECTION	ACTION	BILL
334.655	Amended	SB 1181	337.510	Amended	HB 1195
334.660	Amended	SB 1122	337.615	Amended	HB 1195
334.660	Amended	SB 1181	337.615	Amended	SB 1122
334.665	Amended	SB 1122	337.642	New	SB 1122
334.665	Amended	SB 1181	337.665	Amended	SB 1122
334.702	Amended	HB 1399	337.703	Amended	HB 1195
334.702	Amended	SB 962	337.706	Amended	HB 1195
334.704	Amended	HB 1399	337.712	Amended	SB 1122
334.704	Amended	SB 962	337.715	Amended	HB 1195
334.706	Amended	HB 1399	338.013	Amended	SB 1122
334.706	Amended	SB 962	338.055	Amended	SB 1122
334.708	Amended	HB 1399	338.065	Amended	SB 1122
334.708	Amended	SB 962	338.145	New	SB 1122
334.710	Amended	HB 1399	338.155	New	SB 1122
334.710	Amended	SB 962	338.220	Amended	SB 1122
334.712	Amended	HB 1399	339.010	Amended	HB 985
334.712	Amended	SB 962	339.020	Amended	HB 985
334.715	Amended	HB 1399	339.030	Amended	HB 985
334.715	Amended	SB 962	339.040	Amended	HB 985
334.717	Amended	HB 1399	339.060	Amended	HB 985
334.717	Amended	SB 962	339.100	Amended	HB 985
335.016	Amended	SB 1122	339.105	Amended	HB 985
335.212	Amended	SB 1122	339.120	Amended	HB 985
335.245	Amended	SB 1122	339.130	Amended	HB 985
337.085	Amended	SB 1122	339.150	Amended	HB 985
337.507	Amended	SB 1122	339.160	Amended	HB 985

SECTION	ACTION	BILL	SECTION	ACTION	BILL
339.170	Amended	HB 985	347.020	Amended	HB 1664
339.180	Amended	HB 985	347.025	Amended	HB 1664
339.600	Repealed	HB 985	347.039	Amended	HB 1664
339.603	Repealed	HB 985	347.041	Amended	HB 1664
339.605	Repealed	HB 985	347.047	Amended	HB 1664
339.606	Repealed	HB 985	347.051	Amended	HB 1664
339.607	Repealed	HB 985	347.055	Amended	HB 1664
339.608	Repealed	HB 985	347.079	Amended	HB 1664
339.610	Repealed	HB 985	347.081	Amended	HB 1664
339.612	Repealed	HB 985	347.088	Amended	HB 1664
339.614	Repealed	HB 985	347.129	Amended	HB 1664
339.617	Repealed	HB 985	347.131	Amended	HB 1664
339.710	Amended	HB 985	347.153	Amended	HB 1664
339.760	Amended	HB 985	347.155	Amended	HB 1664
339.780	Amended	HB 985	347.159	Repealed	HB 1664
339.800	Amended	HB 985	347.160	New	HB 1664
340.200	Amended	HB 869	347.161	Amended	HB 1664
340.217	New	HB 869	347.169	Amended	HB 1664
340.246	Amended	HB 869	347.179	Amended	HB 1664
340.255	New	HB 869	347.725	Amended	HB 1664
340.262	Amended	HB 869	348.406	Amended	SB 740
340.306	Amended	HB 869	348.412	Amended	SB 740
340.312	Amended	HB 869	348.430	Amended	HB 1182
340.320	Amended	HB 869	348.430	Amended	SB 740
345.015	Amended	SB 1122	348.432	Amended	HB 1182
346.135	Amended	SB 1122	348.432	Amended	SB 740

SECTION	ACTION	BILL	SECTION	ACTION	BILL
351.046	Amended	HB 1664	355.146	Amended	HB 1664
351.050	Amended	HB 1664	355.176	Vetoed	HB 1304
351.051	Amended	HB 1664	355.631	Amended	HB 1664
351.055	Amended	HB 1664	356.012	New	HB 1664
351.060	Amended	HB 1664	356.071	Amended	HB 1664
351.085	Amended	HB 1664	356.211	Amended	HB 1664
351.090	Amended	HB 1664	358.440	Amended	HB 1664
351.095	Amended	HB 1664	358.460	Amended	HB 1664
351.106	Amended	HB 1664	358.490	Amended	HB 1664
351.107	Amended	HB 1664	359.021	Amended	HB 1664
351.110	Amended	HB 1664	359.031	Amended	HB 1664
351.115	Amended	HB 1664	359.041	Amended	HB 1664
351.125	Amended	HB 1664	359.121	Amended	HB 1664
351.180	Amended	HB 1664	359.141	Amended	HB 1664
351.195	Amended	HB 1664	359.145	New	HB 1664
351.200	Amended	HB 1664	359.172	Amended	HB 1664
351.315	Amended	HB 1664	359.501	Amended	HB 1664
351.355	Amended	HB 1664	359.531	Amended	HB 1664
351.430	Amended	HB 1664	359.541	Amended	HB 1664
351.435	Amended	HB 1664	362.112	New	SB 1093
351.448	Amended	HB 1664	362.191	New	HB 959
351.657	Amended	HB 1664	362.600	Amended	HB 1511
351.658	Amended	HB 1664	365.020	Amended	SB 1233
353.020	Amended	SB 1253	365.080	Amended	SB 1233
355.011	Amended	HB 1664	365.100	Amended	SB 1233
355.021	Amended	HB 1664	369.161	New	SB 1093

SECTION	ACTION	BILL	SECTION	ACTION	BILL
369.176	New	HB 959	374.788	New	SB 1122
370.400	New	SB 1093	374.789	New	SB 1122
374.695	New	SB 1122	375.246	Amended	HB 1253
374.700	Amended	SB 1122	375.246	Amended	SB 1235
374.702	New	SB 1122	375.772	Amended	SB 1299
374.705	Amended	SB 1122	375.773	Amended	SB 1299
374.710	Amended	SB 1122	375.774	Amended	SB 1299
374.715	Amended	SB 1122	375.775	Amended	SB 1299
374.716	New	SB 1122	375.776	Amended	SB 1299
374.717	New	SB 1122	375.778	Amended	SB 1299
374.719	New	SB 1122	375.779	Amended	SB 1299
374.725	Repealed	SB 1122	375.937	Amended	HB 1291
374.730	Amended	SB 1122	375.937	Amended	SB 1086
374.735	Amended	SB 1122	375.1198	Amended	HB 1253
374.740	Amended	SB 1122	375.1198	Amended	SB 1235
374.755	Amended	SB 1122	375.1220	Amended	HB 1253
374.757	Amended	SB 1122	375.1220	Amended	SB 1235
374.759	New	SB 1122	376.433	New	HB 1233
374.763	Amended	SB 1122	376.669	New	HB 938
374.764	New	SB 1122	376.669	New	SB 1188
374.765	Repealed	SB 1122	376.671	Amended	HB 938
374.783	New	SB 1122	376.671	Amended	SB 1188
374.784	New	SB 1122	376.779	Amended	HB 855
374.785	New	SB 1122	376.810	Amended	HB 855
374.786	New	SB 1122	376.811	Amended	HB 855
374.787	New	SB 1122	376.826	Amended	HB 855

SECTION	ACTION	BILL	SECTION	ACTION	BILL
376.836	Amended	HB 855	393.715	Amended	HB 1171
376.840	Repealed	HB 855	393.720	Amended	HB 1171
376.841	Vetoed	HB 1614	393.725	Amended	HB 1171
376.1550	New	HB 855	393.730	Amended	HB 1171
379.110	Amended	SB 1299	393.740	Amended	HB 1171
379.808	New	HB 1090	393.745	Amended	HB 1171
379.815	Amended	SB 1299	393.760	Amended	HB 795
379.825	Amended	HB 1253	393.760	Amended	HB 1171
379.825	Amended	SB 1299	393.770	Amended	HB 1171
382.210	Amended	HB 1198	400.1-105	Amended	HB 904
382.210	Amended	SB 1078	400.6-101	Repealed	HB 904
384.043	Amended	SB 1299	400.6-102	Repealed	HB 904
384.062	Amended	SB 1299	400.6-103	Repealed	HB 904
384.065	Amended	SB 1299	400.6-104	Repealed	HB 904
386.135	Amended	HB 1548	400.6-105	Repealed	HB 904
389.610	Amended	HB 795	400.6-107	Repealed	HB 904
390.020	Amended	SB 757	400.6-108	Repealed	HB 904
390.020	Amended	SB 1233	400.6-109	Repealed	HB 904
390.136	Amended	HB 928	400.6-110	Repealed	HB 904
390.136	Amended	SB 1233	400.6-111	Repealed	HB 904
390.340	Repealed	HB 928	402.199	Amended	HB 923
390.340	Repealed	SB 1233	402.200	Amended	HB 923
393.310	Amended	SB 878	402.205	Amended	HB 923
393.310	Amended	SB 968	402.215	Amended	HB 923
393.705	Amended	HB 1171	402.217	Amended	HB 923
393.710	Amended	HB 1171	407.567	Amended	SB 1233

SECTION	ACTION	BILL	SECTION	ACTION	BILL
407.730	Amended	HB 1285	408.178	New	HB 959
407.730	Amended	SB 1233	408.190	Amended	HB 959
407.735	Amended	HB 1285	408.232	Amended	HB 959
407.735	Amended	SB 1233	408.480	New	HB 959
407.1047	New	HB 1288	409.108	New	HB 1617
407.1200	New	SB 1233	409.109	New	HB 1617
407.1203	New	SB 1233	409.111	New	HB 1617
407.1206	New	SB 1233	409.112	New	HB 1617
407.1209	New	SB 1233	409.113	New	HB 1617
407.1212	New	SB 1233	409.114	New	HB 1617
407.1215	New	SB 1233	414.560	Amended	SB 1250
407.1218	New	SB 1233	417.210	Amended	HB 1664
407.1221	New	SB 1233	417.215	Repealed	HB 1664
407.1224	New	SB 1233	417.217	Amended	HB 1664
407.1225	New	SB 1233	417.220	Amended	HB 1664
407.1227	New	SB 1233	427.225	New	HB 959
407.1360	New	HB 1288	431.056	Amended	HB 1453
407.1362	New	HB 1288	431.300	Vetoed	SB 1081
407.1364	New	HB 1288	431.303	Vetoed	SB 1081
407.1366	New	HB 1288	431.306	Vetoed	SB 1081
407.1368	New	HB 1288	431.309	Vetoed	SB 1081
407.1370	New	HB 1288	431.312	Vetoed	SB 1081
408.032	Amended	HB 959	431.315	Vetoed	SB 1081
408.040	Vetoed	HB 1304	432.047	New	HB 959
408.140	Amended	HB 959	436.200	Repealed	SB 1122
408.140	Amended	SB 1233	436.205	Repealed	SB 1122

SECTION	ACTION	BILL	SECTION	ACTION	BILL
436.209	Repealed	SB 1122	452.375	Amended	HB 1453
436.212	Repealed	SB 1122	452.400	Amended	HB 1453
436.215	New	SB 1122	452.402	Amended	HB 1453
436.218	New	SB 1122	452.423	Amended	HB 1453
436.221	New	SB 1122	452.423	Amended	SB 1211
436.224	New	SB 1122	452.455	Amended	HB 1453
436.227	New	SB 1122	453.020	Amended	HB 1453
436.230	New	SB 1122	453.025	Amended	HB 1453
436.233	New	SB 1122	453.030	Amended	HB 1453
436.236	New	SB 1122	453.060	Amended	HB 1453
436.239	New	SB 1122	453.061	New	HB 1453
436.242	New	SB 1122	453.110	Amended	HB 1453
436.245	New	SB 1122	455.010	Amended	SB 1211
436.248	New	SB 1122	455.090	New	SB 1211
436.251	New	SB 1122	455.501	Amended	SB 1211
436.254	New	SB 1122	456.001	New	HB 1511
436.257	New	SB 1122	456.003	New	HB 1511
436.260	New	SB 1122	456.005	New	HB 1511
436.263	New	SB 1122	456.007	New	HB 1511
436.266	New	SB 1122	456.009	New	HB 1511
436.269	New	SB 1122	456.010	Repealed	HB 1511
436.272	New	SB 1122	456.011	New	HB 1511
443.130	Amended	HB 959	456.013	New	HB 1511
452.025	New	SB 1211	456.015	Amended	HB 1511
452.310	Amended	HB 1364	456.016	Repealed	HB 1511
452.310	Amended	SB 1211	456.017	New	HB 1511

SECTION	ACTION	BILL	SECTION	ACTION	BILL
456.019	New	HB 1511	456.130	Repealed	HB 1511
456.020	Repealed	HB 1511	456.140	Repealed	HB 1511
456.021	New	HB 1511	456.150	Repealed	HB 1511
456.023	New	HB 1511	456.160	Repealed	HB 1511
456.025	New	HB 1511	456.170	Repealed	HB 1511
456.027	New	HB 1511	456.180	Repealed	HB 1511
456.029	New	HB 1511	456.183	Repealed	HB 1511
456.030	Repealed	HB 1511	456.185	Repealed	HB 1511
456.031	New	HB 1511	456.187	Repealed	HB 1511
456.033	New	HB 1511	456.190	Repealed	HB 1511
456.035	New	HB 1511	456.195	Repealed	HB 1511
456.037	New	HB 1511	456.200	Repealed	HB 1511
456.039	New	HB 1511	456.210	Repealed	HB 1511
456.040	Repealed	HB 1511	456.220	Repealed	HB 1511
456.041	New	HB 1511	456.225	Repealed	HB 1511
456.050	Repealed	HB 1511	456.230	Repealed	HB 1511
456.055	Repealed	HB 1511	456.232	Repealed	HB 1511
456.060	Repealed	HB 1511	456.233	Repealed	HB 1511
456.070	Repealed	HB 1511	456.234	Repealed	HB 1511
456.072	Repealed	HB 1511	456.235	Repealed	HB 1511
456.075	Repealed	HB 1511	456.236	Repealed	HB 1511
456.080	Repealed	HB 1511	456.240	Repealed	HB 1511
456.090	Repealed	HB 1511	456.250	Repealed	HB 1511
456.100	Repealed	HB 1511	456.260	Repealed	HB 1511
456.110	Repealed	HB 1511	456.270	Repealed	HB 1511
456.120	Repealed	HB 1511	456.280	Repealed	HB 1511

SECTION	ACTION	BILL	SECTION	ACTION	BILL
456.290	Repealed	HB 1511	456.570	Repealed	HB 1511
456.300	Repealed	HB 1511	456.580	Repealed	HB 1511
456.310	Repealed	HB 1511	456.610	Repealed	HB 1511
456.320	Repealed	HB 1511	456.620	Repealed	HB 1511
456.330	Repealed	HB 1511	456.630	Repealed	HB 1511
456.340	Repealed	HB 1511	456.640	Repealed	HB 1511
456.350	Repealed	HB 1511	456.650	Repealed	HB 1511
456.400	Repealed	HB 1511	456.660	Repealed	HB 1511
456.410	Repealed	HB 1511	456.670	Repealed	HB 1511
456.420	Repealed	HB 1511	456.1-101	New	HB 1511
456.430	Repealed	HB 1511	456.1-102	New	HB 1511
456.440	Repealed	HB 1511	456.1-103	New	HB 1511
456.450	Repealed	HB 1511	456.1-104	New	HB 1511
456.460	Repealed	HB 1511	456.1-105	New	HB 1511
456.470	Repealed	HB 1511	456.1-106	New	HB 1511
456.480	Repealed	HB 1511	456.1-107	New	HB 1511
456.490	Repealed	HB 1511	456.1-108	New	HB 1511
456.500	Repealed	HB 1511	456.1-109	New	HB 1511
456.510	Repealed	HB 1511	456.1-110	New	HB 1511
456.520	Repealed	HB 1511	456.1-111	New	HB 1511
456.524	Repealed	HB 1511	456.1-112	New	HB 1511
456.530	Repealed	HB 1511	456.2-201	New	HB 1511
456.535	Repealed	HB 1511	456.2-202	New	HB 1511
456.540	Repealed	HB 1511	456.2-204	New	HB 1511
456.550	Repealed	HB 1511	456.3-301	New	HB 1511
456.560	Repealed	HB 1511	456.3-302	New	HB 1511

SECTION	ACTION	BILL	SECTION	ACTION	BILL
456.3-303	New	HB 1511	456.5-506	New	HB 1511
456.3-304	New	HB 1511	456.5-507	New	HB 1511
456.3-305	New	HB 1511	456.6-601	New	HB 1511
456.4-401	New	HB 1511	456.6-602	New	HB 1511
456.4-402	New	HB 1511	456.6-603	New	HB 1511
456.4-403	New	HB 1511	456.6-604	New	HB 1511
456.4-404	New	HB 1511	456.7-701	New	HB 1511
456.4-405	New	HB 1511	456.7-702	New	HB 1511
456.4-406	New	HB 1511	456.7-703	New	HB 1511
456.4-407	New	HB 1511	456.7-704	New	HB 1511
456.4-408	New	HB 1511	456.7-705	New	HB 1511
456.4-409	New	HB 1511	456.7-706	New	HB 1511
456.4-410	New	HB 1511	456.7-707	New	HB 1511
456.4-411A	New	HB 1511	456.7-708	New	HB 1511
456.4-411B	New	HB 1511	456.7-709	New	HB 1511
456.4-412	New	HB 1511	456.8-801	New	HB 1511
456.4-413	New	HB 1511	456.8-802	New	HB 1511
456.4-414	New	HB 1511	456.8-803	New	HB 1511
456.4-415	New	HB 1511	456.8-804	New	HB 1511
456.4-416	New	HB 1511	456.8-805	New	HB 1511
456.4-417	New	HB 1511	456.8-806	New	HB 1511
456.5-501	New	HB 1511	456.8-807	New	HB 1511
456.5-502	New	HB 1511	456.8-808	New	HB 1511
456.5-503	New	HB 1511	456.8-809	New	HB 1511
456.5-504	New	HB 1511	456.8-810	New	HB 1511
456.5-505	New	HB 1511	456.8-811	New	HB 1511

SECTION	ACTION	BILL	SECTION	ACTION	BILL
456.8-812	New	HB 1511	469.250	New	HB 1511
456.8-813	New	HB 1511	469.260	New	HB 1511
456.8-814	New	HB 1511	469.270	New	HB 1511
456.8-815	New	HB 1511	469.280	New	HB 1511
456.8-816	New	HB 1511	469.290	New	HB 1511
456.8-817	New	HB 1511	469.300	New	HB 1511
456.10-1001	New	HB 1511	469.310	New	HB 1511
456.10-1002	New	HB 1511	469.320	New	HB 1511
456.10-1003	New	HB 1511	469.330	New	HB 1511
456.10-1004	New	HB 1511	469.340	New	HB 1511
456.10-1005	New	HB 1511	469.350	New	HB 1511
456.10-1006	New	HB 1511	469.401	Amended	HB 1511
456.10-1007	New	HB 1511	469.402	New	HB 1511
456.10-1008	New	HB 1511	469.409	Amended	HB 1511
456.10-1009	New	HB 1511	469.411	Amended	HB 1511
456.10-1010	New	HB 1511	469.419	Amended	HB 1511
456.10-1011	New	HB 1511	469.423	Amended	HB 1511
456.10-1012	New	HB 1511	469.435	Amended	HB 1511
456.10-1013	New	HB 1511	469.449	Amended	HB 1511
456.11-1101	New	HB 1511	469.453	Amended	HB 1511
456.11-1102	New	HB 1511	469.900	New	HB 1511
456.11-1103	New	HB 1511	469.901	New	HB 1511
456.11-1104	New	HB 1511	469.902	New	HB 1511
456.11-1106	New	HB 1511	469.903	New	HB 1511
461.300	Amended	HB 1511	469.904	New	HB 1511
469.240	New	HB 1511	469.905	New	HB 1511

SECTION	ACTION	BILL	SECTION	ACTION	BILL
469.906	New	HB 1511	486.260	Amended	HB 1193
469.907	New	HB 1511	486.265	Amended	HB 1193
469.908	New	HB 1511	486.280	Amended	HB 1193
469.909	New	HB 1511	486.285	Amended	HB 1193
469.910	New	HB 1511	486.295	Amended	HB 1193
469.911	New	HB 1511	486.300	Amended	HB 1193
469.912	New	HB 1511	486.310	Amended	HB 1193
469.913	New	HB 1511	486.315	Amended	HB 1193
472.075	New	SB 1211	486.330	Amended	HB 1193
475.024	Amended	HB 1453	486.335	Amended	HB 1193
475.275	Amended	HB 795	486.340	Amended	HB 1193
475.275	Amended	SB 1243	486.345	Amended	HB 1193
476.800	New	SB 1211	486.350	Amended	HB 1193
476.810	New	SB 1211	486.385	Amended	HB 1193
476.820	New	SB 1211	486.395	Amended	HB 1193
478.266	Amended	SB 1211	486.396	New	HB 1193
478.725	Repealed	SB 1211	487.100	Amended	HB 1453
479.011	New	HB 1407	488.426	Amended	HB 795
479.020	Amended	HB 795	488.429	Amended	HB 795
479.020	Amended	SB 1211	488.429	Amended	HB 798
482.330	Amended	SB 1211	488.429	Vetoed	SB 1111
483.537	New	SB 1211	488.429	Amended	SB 1211
483.550	Amended	SB 1211	488.2205	Amended	HB 994
486.225	Amended	HB 1193	488.2275	Amended	SB 1211
486.235	Amended	HB 1193	488.4014	Amended	HB 1188
486.240	Amended	HB 1193	488.5026	Amended	HB 1179

SECTION	ACTION	BILL	SECTION	ACTION	BILL
488.5320	Amended	HB 1188	513.430	Amended	SB 1211
488.5400	New	SB 1000	513.440	Amended	HB 959
490.525	Amended	SB 1211	513.440	Amended	SB 1211
491.075	Amended	HB 1453	516.105	Vetoed	HB 1304
491.300	Repealed	SB 1211	526.010	Amended	SB 1211
491.640	Amended	SB 1211	526.020	Repealed	SB 1211
492.304	Amended	HB 1453	527.290	Amended	SB 1211
493.050	Amended	HB 795	535.020	Amended	SB 1211
493.050	Amended	SB 1020	535.030	Amended	SB 1211
494.400	Amended	SB 1211	536.010	Amended	HB 978
494.425	Amended	SB 1211	536.015	Amended	HB 1616
494.430	Amended	SB 1211	536.015	Amended	SB 1100
494.431	Repealed	SB 1211	536.021	Amended	HB 1616
494.432	New	SB 1211	536.021	Amended	SB 1100
494.445	Amended	SB 1211	536.023	Amended	HB 1616
494.450	Amended	SB 1211	536.023	Amended	SB 1100
494.460	Amended	SB 1211	536.031	Amended	HB 1616
506.290	Amended	HB 959	536.031	Amended	SB 1100
508.010	Vetoed	HB 1304	536.300	New	HB 978
508.040	Vetoed	HB 1304	536.305	New	HB 978
508.070	Vetoed	HB 1304	536.310	New	HB 978
508.120	Vetoed	HB 1304	536.315	New	HB 978
510.263	Vetoed	HB 1304	536.325	New	HB 978
512.020	Amended	SB 1211	537.035	Vetoed	HB 1304
512.180	Amended	SB 1211	537.046	Amended	HB 1055
513.430	Amended	HB 959	537.046	Amended	HB 1453

SECTION	ACTION	BILL	SECTION	ACTION	BILL
537.046	Amended	SB 1211	565.115	New	HB 1487
537.067	Vetoed	HB 1304	566.083	Amended	HB 1055
537.115	Amended	HB 1192	566.093	Amended	HB 1055
537.115	Amended	SB 740	566.140	Amended	HB 1055
537.550	New	HB 795	566.141	Amended	HB 1055
537.800	New	SB 807	566.147	New	HB 1055
537.900	New	HB 1115	566.200	New	HB 1487
538.205	Vetoed	HB 1304	566.203	New	HB 1487
538.210	Vetoed	HB 1304	566.206	New	HB 1487
538.213	Vetoed	HB 1304	566.209	New	HB 1487
538.220	Vetoed	HB 1304	566.212	New	HB 1487
538.225	Vetoed	HB 1304	566.215	New	HB 1487
538.226	Vetoed	HB 1304	566.218	New	HB 1487
541.033	Amended	HB 959	566.223	New	HB 1487
542.261	Amended	SB 920	567.030	Amended	HB 1487
542.276	Amended	SB 1211	570.030	Amended	SB 1211
544.020	Amended	SB 1211	570.200	Amended	SB 1211
556.037	Amended	HB 1055	570.210	Amended	SB 1211
556.037	Amended	HB 1487	570.223	Amended	HB 916
558.019	Amended	HB 1055	570.223	Amended	HB 959
559.021	Amended	HB 1055	570.224	New	HB 916
559.026	Amended	SB 1211	570.224	New	HB 959
565.082	Amended	HB 1055	573.037	Amended	HB 1055
565.083	Amended	HB 1055	573.040	Amended	HB 1055
565.095	New	HB 1074	575.120	Amended	HB 916
565.110	Amended	HB 1487	575.195	Amended	HB 1215

SECTION	ACTION	BILL	SECTION	ACTION	BILL
577.054	Amended	SB 1233	610.200	Amended	SB 1020
577.080	Amended	SB 1233	610.255	New	SB 1099
578.154	Amended	SB 992	620.014	Amended	SB 1099
589.400	Amended	HB 1055	620.017	Amended	SB 1099
589.415	New	HB 1055	620.127	Amended	SB 1122
589.425	Amended	HB 1055	620.145	Amended	SB 1122
590.118	New	SB 1211	620.1039	Amended	SB 1155
590.650	Amended	SB 1233	620.1300	Amended	SB 1099
595.045	Amended	HB 1188	620.1400	Repealed	SB 1155
595.045	Amended	SB 1211	620.1410	Repealed	SB 1155
595.050	Amended	SB 1211	620.1420	Repealed	SB 1155
610.010	Amended	SB 1020	620.1430	Repealed	SB 1155
610.011	Amended	SB 1020	620.1440	Repealed	SB 1155
610.015	Amended	SB 1020	620.1450	Repealed	SB 1155
610.020	Amended	SB 1020	620.1460	Repealed	SB 1155
610.021	Amended	SB 1020	620.1560	Repealed	SB 1155
610.022	Amended	SB 1020	622.095	Amended	HB 928
610.023	Amended	SB 1020	622.095	Amended	SB 1233
610.025	New	SB 1020	622.350	Amended	SB 1233
610.026	Amended	SB 1020	622.618	Repealed	HB 928
610.027	Amended	SB 1020	622.618	Repealed	SB 1233
610.028	Amended	HB 1548	630.097	New	SB 1003
610.029	Amended	SB 1020	630.130	Amended	SB 1211
610.100	Amended	SB 1020	630.210	Amended	SB 1003
610.100	Amended	SB 1211	632.498	Amended	SB 1211
610.200	Amended	HB 1660	640.015	New	HB 980

SECTION	ACTION	BILL	SECTION	ACTION	BILL
640.018	New	HB 980	650.600	New	SB 972
640.635	New	HB 1433	650.605	New	SB 972
640.700	Vetoed	HB 1177	650.610	New	SB 972
640.703	Vetoed	HB 1177	650.615	New	SB 972
640.710	Vetoed	HB 1177	650.620	New	SB 972
640.715	Vetoed	HB 1177	660.520	Amended	HB 1055
640.725	Vetoed	HB 1177	700.320	Amended	SB 1233
640.730	Vetoed	HB 1177	700.600	New	HB 998
640.735	Vetoed	HB 1177	700.630	New	HB 1511
640.745	Vetoed	HB 1177	700.650	New	SB 1096
640.750	Vetoed	HB 1177	700.653	New	SB 1096
640.755	Vetoed	HB 1177	700.656	New	SB 1096
643.315	Amended	HB 996	700.659	New	SB 1096
644.016	Vetoed	HB 1177	700.662	New	SB 1096
644.032	Amended	HB 795	700.665	New	SB 1096
644.032	Amended	HB 833	700.668	New	SB 1096
644.032	Amended	SB 1155	700.671	New	SB 1096
644.051	Vetoed	HB 1177	700.674	New	SB 1096
644.076	Amended	HB 1433	700.677	New	SB 1096
644.581	New	SB 987	700.680	New	SB 1096
644.582	New	SB 987	700.683	New	SB 1096
644.583	New	SB 987	700.686	New	SB 1096
650.050	Amended	SB 1000	700.689	New	SB 1096
650.052	Amended	SB 1000	700.692	New	SB 1096
650.055	Amended	SB 1000	701.031	Amended	HB 1433
650.100	Amended	SB 1000	701.033	Amended	HB 1433

SECTION	ACTION	BILL	SECTION	ACTION	BILL
701.037	Amended	HB 1433	1	New	SB 1302
701.038	Amended	HB 1433	1	Vetoed	SB 1304
701.336	Amended	HB 1453	2	New	HB 795
701.342	Amended	SB 1083	2	New	HB 1071
701.377	Amended	HB 1403	2	New	HB 1195
1	New	HB 795	2	Vetoed	HB 1304
1	New	HB 959	2	New	HB 1453
1	New	HB 980	2	New	HB 1613
1	New	HB 1071	2	New	SB 942
1	New	HB 1195	2	New	SB 968
1	Vetoed	HB 1304	2	Vetoed	SB 1081
1	New	HB 1453	2	New	SB 1106
1	New	HB 1511	2	New	SB 1233
1	New	HB 1613	3	New	HB 1071
1	New	SB 870	3	Vetoed	HB 1304
1	New	SB 942	3	New	HB 1613
1	New	SB 960	3	New	SB 942
1	New	SB 966	3	New	SB 968
1	New	SB 968	4	New	HB 1071
1	New	SB 987	4	New	HB 1613
1	New	SB 1020	4	New	SB 942
1	Vetoed	SB 1081	5	New	HB 1071
1	New	SB 1106	5	New	HB 1613
1	New	SB 1107	5	New	SB 942
1	New	SB 1211	6	New	HB 1071
1	New	SB 1233	6	New	HB 1613

SECTION	ACTION	BILL		SECTION	ACTION	BILL
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7	New	HB 1071
7	New	HB 1613

8	New	HB 1613
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SB 4 [SCS SB 4]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the law regarding the hiring of employees for in-home and home health agencies.

AN ACT to repeal sections 660.300 and 660.317, RSMo, and to enact in lieu thereof two new sections relating to hiring restrictions for in-home and home health agencies, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
- 660.300. Report of abuse or neglect of in-home services or home health agency client, duty — penalty — contents of report — investigation, procedure — confidentiality of report — immunity — retaliation prohibited, penalty — employee disqualification list — safe at home evaluations, procedure.
- 660.317. Criminal background checks of employees, required when — persons with criminal history not to be hired, when, penalty — failure to disclose, penalty — improper hirings, penalty — definitions — rules to waive hiring restrictions.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 660.300 and 660.317, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 660.300 and 660.317, to read as follows:

660.300. REPORT OF ABUSE OR NEGLECT OF IN-HOME SERVICES OR HOME HEALTH AGENCY CLIENT, DUTY — PENALTY — CONTENTS OF REPORT — INVESTIGATION, PROCEDURE — CONFIDENTIALITY OF REPORT — IMMUNITY — RETALIATION PROHIBITED, PENALTY — EMPLOYEE DISQUALIFICATION LIST — SAFE AT HOME EVALUATIONS, PROCEDURE. — 1. When any adult day care worker; chiropractor; Christian Science practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to believe that an in-home services client has been abused or neglected, as a result of in-home services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the in-home services client, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of an in-home services client is received by the department, the client's case manager and the department nurse shall be notified. The client's case manager shall investigate and immediately report the results of the investigation to the department nurse. The department may authorize the in-home services provider nurse to assist the case manager with the investigation.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and report of abuse and neglect pursuant to this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the in-home services provider agency, the in-home services employee, the in-home services client, the home health agency, the home health agency employee, information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that an in-home services client or home health patient has been abused or neglected by an in-home services employee or home health agency employee may report such information to the department.

7. If the investigation indicates possible abuse or neglect of an in-home services client or home health patient, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the in-home services client or home health patient from abuse or neglect, the department or the local prosecuting attorney may, or the attorney general upon request of the department shall, file a petition for temporary care and protection of the in-home services client or home health patient in a circuit court of competent jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the department authority for the temporary care and protection of the in-home services client or home health patient, for a period not to exceed thirty days.

8. Reports shall be confidential, as provided under section 660.320.

9. Anyone, except any person who has abused or neglected an in-home services client or home health patient, who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from the report shall be immune from any civil or criminal liability for making such a report or for testifying except for liability for perjury, unless such person acted negligently, recklessly, in bad faith, or with malicious purpose.

10. Within five working days after a report required to be made under this section is received, the person making the report shall be notified in writing of its receipt and of the initiation of the investigation.

11. No person who directs or exercises any authority in an in-home services provider agency or home health agency shall harass, dismiss or retaliate against an in-home services client or home health patient, or an in-home services employee or a home health agency employee because he or any member of his or her family has made a report of any violation or suspected violation of laws, standards or regulations applying to the in-home services provider agency or home health agency or any in-home services employee or home health agency employee which he has reasonable cause to believe has been committed or has occurred.

12. Any person who abuses or neglects an in-home services client or home health patient is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo. If such person is an in-home services employee and has been found guilty by a court, and if the supervising in-home services provider willfully and knowingly failed to report known abuse by such employee to the department, the supervising in-home services provider may be subject to administrative penalties of one thousand dollars per violation to be collected by the department and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the general revenue fund. Any in-home services provider which has had administrative penalties imposed by the department or which has had its contract terminated may seek an administrative review of the department's action pursuant to chapter 621, RSMo. Any decision of the administrative hearing commission may be appealed to the circuit court in the county where the violation occurred for a trial de novo. For purposes of this subsection, the term "violation" means a determination of guilt by a court.

13. The department shall establish a quality assurance and supervision process for clients that requires an in-home services provider agency to conduct random visits to verify compliance with program standards and verify the accuracy of records kept by an in-home services employee.

14. The department shall maintain the employee disqualification list and place on the employee disqualification list the names of any persons who have been finally determined by the department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or neglected an in-home services client or home health patient while employed by an in-home services provider agency or home health agency. For purposes of this section only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts "knowingly" with respect to the person's conduct when a reasonable person should be aware of the result caused by his or her conduct. A person acts "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the person's conduct will result in serious physical injury and such disregard constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation. [Any in-home services provider agency or home health agency that knowingly employs a person who refuses to register with the family care safety registry or who is listed on any of the background check lists in the family care safety registry, pursuant to sections 210.900 to 210.937, RSMo, is guilty of a class A misdemeanor.]

15. At the time a client has been assessed to determine the level of care as required by rule and is eligible for in-home services, the department shall conduct a "Safe at Home Evaluation" to determine the client's physical, mental, and environmental capacity. The department shall develop the safe at home evaluation tool by rule in accordance with chapter 536, RSMo. The purpose of the safe at home evaluation is to assure that each client has the appropriate level of services and professionals involved in the client's care. The plan of service or care for each in-home services client shall be authorized by a nurse. The department may authorize the licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of the client's condition and to establish a plan of services or care. The department may use the expertise, services, or programs of other departments and agencies on a case-by-case basis to establish the plan of service or care. The department may, as indicated by the safe at home evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment as necessary.

16. Authorized nurse visits shall occur at least twice annually to assess the client and the client's plan of services. The provider nurse shall report the results of his or her visits to the client's case manager. If the provider nurse believes that the plan of service requires alteration, the department shall be notified and the department shall make a client evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients whose services have reached one hundred percent of the average statewide charge for care and treatment in an intermediate care facility, provided that the services have been preauthorized by the department.

17. All in-home services clients shall be advised of their rights by the department at the initial evaluation. The rights shall include, but not be limited to, the right to call the department for any reason, including dissatisfaction with the provider or services. The department shall establish a process to receive such nonabuse and neglect calls other than the elder abuse and neglect hot line.

18. Subject to appropriations, all nurse visits authorized in sections 660.250 to 660.300 shall be reimbursed to the in-home services provider agency.

660.317. CRIMINAL BACKGROUND CHECKS OF EMPLOYEES, REQUIRED WHEN — PERSONS WITH CRIMINAL HISTORY NOT TO BE HIRED, WHEN, PENALTY — FAILURE TO DISCLOSE, PENALTY — IMPROPER HIRINGS, PENALTY — DEFINITIONS — RULES TO WAIVE

HIRING RESTRICTIONS. — 1. For the purposes of this section, the term "provider" means any person, corporation or association who:

- (1) Is licensed as an operator pursuant to chapter 198, RSMo;
- (2) Provides in-home services under contract with the department;
- (3) Employs nurses or nursing assistants for temporary or intermittent placement in health care facilities;
- (4) Is an entity licensed pursuant to chapter 197, RSMo;
- (5) Is a public or private facility, day program, residential facility or specialized service operated, funded or licensed by the department of mental health; or
- (6) Is a licensed adult day care provider.

2. For the purpose of this section "patient or resident" has the same meaning as such term is defined in section 43.540, RSMo.

3. Prior to allowing any person who has been hired as a full-time, part-time or temporary position to have contact with any patient or resident the provider shall, or in the case of temporary employees hired through or contracted for an employment agency, the employment agency shall prior to sending a temporary employee to a provider:

(1) Request a criminal background check as provided in section 43.540, RSMo. Completion of an inquiry to the highway patrol for criminal records that are available for disclosure to a provider for the purpose of conducting an employee criminal records background check shall be deemed to fulfill the provider's duty to conduct employee criminal background checks pursuant to this section; except that, completing the inquiries pursuant to this subsection shall not be construed to exempt a provider from further inquiry pursuant to common law requirements governing due diligence. If an applicant has not resided in this state for five consecutive years prior to the date of his or her application for employment, the provider shall request a nationwide check for the purpose of determining if the applicant has a prior criminal history in other states. The fingerprint cards and any required fees shall be sent to the highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. The provisions relating to applicants for employment who have not resided in this state for five consecutive years shall apply only to persons who have no employment history with a licensed Missouri facility during that five-year period. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the provider making the record request; and

(2) Make an inquiry to the department of health and senior services whether the person is listed on the employee disqualification list as provided in section 660.315.

4. When the provider requests a criminal background check pursuant to section 43.540, RSMo, the requesting entity may require that the applicant reimburse the provider for the cost of such record check. When a provider requests a nationwide criminal background check pursuant to subdivision (1) of subsection 3 of this section, the total cost to the provider of any background check required pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide criminal background check shall be subject to the availability of appropriations.

5. An applicant for a position to have contact with patients or residents of a provider shall:

(1) Sign a consent form as required by section 43.540, RSMo, so the provider may request a criminal records review;

(2) Disclose the applicant's criminal history. For the purposes of this subdivision "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge and shall include any suspended imposition of sentence, any suspended execution of sentence or any period of probation or parole; and

(3) Disclose if the applicant is listed on the employee disqualification list as provided in section 660.315.

6. An applicant who knowingly fails to disclose his or her criminal history as required in subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have contact with patients or residents and the person has been convicted of, pled guilty to or nolo contendere in this state or any other state or has been found guilty of a crime, which if committed in Missouri would be a class A or B felony violation of chapter 565, 566 or 569, RSMo, or any violation of subsection 3 of section 198.070, RSMo, or section 568.020, RSMo.

7. Any in-home services provider agency or home health agency shall be guilty of a class A misdemeanor if such agency knowingly employs a person to provide in-home services or home health services to any in-home services client or home health patient and such person either refuses to register with the family care safety registry or is listed on any of the background check lists in the family care safety registry pursuant to sections 210.900 to 210.937, RSMo.

[7.] 8. The highway patrol shall examine whether protocols can be developed to allow a provider to request a statewide fingerprint criminal records review check through local law enforcement agencies.

[8.] 9. A provider may use a private investigatory agency rather than the highway patrol to do a criminal history records review check, and alternatively, the applicant pays the private investigatory agency such fees as the provider and such agency shall agree.

[9.] 10. **Except for the hiring restriction based on the department of health and senior services employee disqualification list established pursuant to section 660.315,** the department of health and senior services shall promulgate rules and regulations to waive the hiring restrictions pursuant to this section for good cause. For purposes of this section, "good cause" means the department has made a determination by examining the employee's prior work history and other relevant factors that such employee does not present a risk to the health or safety of residents.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to clarify the laws regarding disqualification of employees of in-home service provider agencies and in-home health care agencies, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved September 15, 2003

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HB 156 [HS HCS HB 156]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the informed consent for abortion statute and requires persons who perform abortions to maintain proof of financial responsibility.

AN ACT to repeal section 188.039, RSMo, and to enact in lieu waiting period for certain medical procedures, with an effective date for a certain section.

SECTION

- A. Enacting clause.
- 188.039. Medical emergency defined — immediate abortion allowed, when — consent form to be provided by the department of health and senior services, content — coercion prohibited — woman to be informed of certain facts, when.
- 188.043. Medical malpractice insurance required to perform an abortion.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 188.039, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 188.039 and 188.043, to read as follows:

188.039. MEDICAL EMERGENCY DEFINED — IMMEDIATE ABORTION ALLOWED, WHEN — CONSENT FORM TO BE PROVIDED BY THE DEPARTMENT OF HEALTH AND SENIOR SERVICES, CONTENT — COERCION PROHIBITED — WOMAN TO BE INFORMED OF CERTAIN FACTS, WHEN. — 1. [No physician shall perform an abortion unless, prior to such abortion, the physician certifies in writing that the woman gave her informed consent, freely and without coercion, after the attending physician had informed her of the information contained in subsection 2 of this section and shall further certify in writing the pregnant woman's age, based upon proof of age offered by her.

2. In order to insure that the consent for an abortion is truly informed consent, no abortion shall be performed or induced upon a pregnant woman unless she has signed a consent form that shall be supplied by the state department of health and senior services, acknowledging that she has been informed by the attending physician of the following facts:

(1) That according to the best medical judgment of her attending physician whether she is or is not pregnant;

(2) The particular risks associated with the abortion technique to be used;

(3) Alternatives to abortion shall be given by the attending physician.

3. The physician may inform the woman of any other material facts or opinions, or provide any explanation of the above information which, in the exercise of his best medical judgment, is reasonably necessary to allow the woman to give her informed consent to the proposed abortion, with full knowledge of its nature and consequences.] **For purposes of this section, "medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.**

2. Except in the case of medical emergency, no person shall perform or induce an abortion unless at least twenty-four hours prior thereto, a treating physician has conferred with the patient and discussed with her the indicators and contra-indicators, and risk factors, including any physical, psychological, or situational factors for the proposed

procedure and the use of medications, including but not limited to mifepristone, in light of her medical history and medical condition. For an abortion performed or an abortion induced by a drug or drugs, such conference shall take place at least twenty-four hours prior to the writing or communication of the first prescription for such drug or drugs in connection with inducing an abortion. Only one such conference shall be required for each abortion.

3. The patient shall be evaluated by a treating physician during the conference for indicators and contraindicators, risk factors, including any physical, psychological, or situational factors which would predispose the patient to or increase the risk of experiencing one or more adverse physical, emotional, or other health reactions to the proposed procedure or drug or drugs in either the short or long term as compared with women who do not possess such risk factors.

4. At the end of the conference, and if the woman chooses to proceed with the abortion, a treating physician shall sign and shall cause the patient to sign a written statement that the woman gave her informed consent freely and without coercion after the physician had discussed with her the indicators and contraindicators, and risk factors, including any physical, psychological, or situational factors. All such executed statements shall be maintained as part of the patient's medical file, subject to the confidentiality laws and rules of this state.

5. The director of the department of health and senior services shall disseminate a model form that physicians may use as the written statement required by this section, but any lack or unavailability of such a model form shall not affect the duties of the physician set forth in subsections 2 to 4 of this section.

188.043. MEDICAL MALPRACTICE INSURANCE REQUIRED TO PERFORM AN ABORTION.

— 1. No person shall perform or induce a surgical or medical abortion unless such person has proof of medical malpractice insurance with coverage amounts of at least five hundred thousand dollars.

2. For the purpose of this section, "medical malpractice insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as a result of the negligence or malpractice in rendering professional service by any health care provider.

3. No abortion facility or hospital shall employ or engage the services of a person to perform one or more abortions if the person does not have proof of medical malpractice insurance pursuant to this section, except the abortion facility or hospital may provide medical malpractice insurance for the services of persons employed or engaged by such facility or hospital.

4. Notwithstanding the provisions of section 334.100, RSMo, failure of a person to maintain the medical malpractice insurance required by this section shall be an additional ground for sanctioning of a person's license, certificate, or permit.

SECTION B. EFFECTIVE DATE. — The effective date of section 188.043 of section A of this act shall be January 1, 2004.

Vetoed by Governor July 9, 2003

Veto overridden September 11, 2003

HB 349 [SS HS HCS HB 349, 120, 136 & 328]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes permits to carry concealed weapons.

AN ACT to repeal section 571.030, RSMo, and to enact in lieu thereof three new sections relating to concealable weapons, with penalty provisions.

SECTION

- A. Enacting clause.
- 50.535. County sheriff's revolving fund established — fees deposited into, use of moneys — no prior approval for expenditures required.
- 571.030. Unlawful use of weapons — exceptions — penalties.
- 571.094. Concealed carry endorsements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 571.030, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 50.535, 571.030, and 571.094, to read as follows:

50.535. COUNTY SHERIFF'S REVOLVING FUND ESTABLISHED — FEES DEPOSITED INTO, USE OF MONEYS — NO PRIOR APPROVAL FOR EXPENDITURES REQUIRED. — 1. Notwithstanding the provisions of sections 50.525 to 50.745 the fee collected pursuant to subsections 10 and 11 of section 571.094, RSMo, shall be deposited by the county treasurer into a separate interest-bearing fund to be known as the county sheriff's revolving fund to be expended at the direction of the county or city sheriff or his or her designee as provided in this section.

2. No prior approval of the expenditures from this fund shall be required by the governing body of the county or city not within a county, nor shall any prior audit or encumbrance of the fund be required before any expenditure is made by the sheriff from this fund. This fund shall only be used by law enforcement agencies for the purchase of equipment and to provide training. If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year. This fund may be audited by the state auditor's office or the appropriate auditing agency.

3. If pursuant to subsection 12 of section 571.094, RSMo, the sheriff of a county of the first classification designates one or more chiefs of police of any town, city, or municipality within such county to accept and process applications for certificates of qualification to obtain a concealed carry endorsement then that sheriff shall reimburse such chiefs of police, out of the moneys deposited into this fund, for any reasonable expenses related to accepting and processing such applications.

571.030. UNLAWFUL USE OF WEAPONS — EXCEPTIONS — PENALTIES. — 1. A person commits the crime of unlawful use of weapons if he or she knowingly:

- (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use; or
- (2) Sets a spring gun; or
- (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any building or structure used for the assembling of people; or

(4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner; or

(5) Possesses or discharges a firearm or projectile weapon while intoxicated; or

(6) Discharges a firearm within one hundred yards of any occupied schoolhouse, courthouse, or church building; or

(7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding; or

(8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof, or into any public assemblage of persons met for any lawful purpose]; or

(9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, RSMo, [while within any city, town, or village, and] discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or

(10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.

2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this section shall not apply to or affect any of the following:

(1) All state, county and municipal [law enforcement] **peace** officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, **whether such officers are within or outside their jurisdictions or on or off duty**, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;

(3) Members of the armed forces or national guard while performing their official duty;

(4) Those persons vested by article V, section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;

(5) Any person whose bona fide duty is to execute process, civil or criminal;

(6) Any federal probation officer;

(7) Any state probation or parole officer, including supervisors and members of the board of probation and parole; [and]

(8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under section 84.340, RSMo; **and**

(9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner.

3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection 1 of this section does not apply **to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor** when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his **or her** dwelling unit or upon [business] premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes

of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

4. **Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to section 571.094 or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.**

5. **Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031, RSMo.**

6. Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any **other** function or activity sponsored or sanctioned by school officials or the district school board.

[5.] 7. Unlawful use of weapons is a class D felony unless committed pursuant to subdivision [(5),] (6), (7), or (8) of subsection 1 of this section, in which cases it is a class B misdemeanor, or subdivision **(5) or (10)** of subsection 1 of this section, in which case it is a class A misdemeanor if the firearm is unloaded and a class D felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section, in which case it is a class B felony, except that if the violation of subdivision (9) of subsection 1 of this section results in injury or death to another person, it is a class A felony.

[6.] 8. Violations of subdivision (9) of subsection 1 of this section shall be punished as follows:

(1) For the first violation a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony;

(2) For any violation by a prior offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation or conditional release for a term of ten years;

(3) For any violation by a persistent offender as defined in section 558.016, RSMo, a person shall be sentenced to the maximum authorized term of imprisonment for a class B felony without the possibility of parole, probation, or conditional release;

(4) For any violation which results in injury or death to another person, a person shall be sentenced to an authorized disposition for a class A felony.

[7.] 9. Any person knowingly aiding or abetting any other person in the violation of subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that prescribed by this section for violations by other persons.

571.094. CONCEALED CARRY ENDORSEMENTS. — 1. All applicants for concealed carry endorsements issued pursuant to subsection 7 of this section must satisfy the requirements of this section. If the said applicant can show qualification as provided by this section, the county or city sheriff shall issue a certificate of qualification for a concealed carry endorsement. Upon receipt of such certificate, the certificate holder shall apply for a driver's license or nondriver's license with the director of revenue in order to obtain a concealed carry endorsement. Any person who has been issued a concealed carry endorsement on a driver's license or nondriver's license and such endorsement or license has not been suspended, revoked, canceled, or denied may carry concealed firearms on or about his or her person or within a vehicle. A concealed carry endorsement shall be valid for a period of three years from the date of issuance or renewal. The concealed carry endorsement is valid throughout this state.

2. A certificate of qualification for a concealed carry endorsement issued pursuant to subsection 7 of this section shall be issued by the sheriff or his or her designee of the county or city in which the applicant resides, if the applicant:

- (1) Is at least twenty-three years of age, is a citizen of the United States and either:
 - (a) Has resided in this state for at least six months; or
 - (b) Is a member of the armed forces stationed in Missouri, or the spouse of such member of the military;
- (2) Has not pled guilty to or entered a plea of nolo contendere or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;
- (3) Has not been convicted of, pled guilty to or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification for a concealed carry endorsement;
- (4) Is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;
- (5) Has not been discharged under dishonorable conditions from the United States armed forces;
- (6) Has not engaged in a pattern of behavior, documented in public records, that causes the sheriff to have a reasonable belief that the applicant presents a danger to himself or others;
- (7) Is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state following a hearing at which the defendant was represented by counsel or a representative;
- (8) Submits a completed application for a certificate of qualification as defined in subsection 3 of this section;
- (9) Submits an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsections 22 and 23 of this section;
- (10) Is not the respondent of a valid full order of protection which is still in effect.

3. The application for a certificate of qualification for a concealed carry endorsement issued by the sheriff of the county of the applicant's residence shall contain only the following information:

- (1) The applicant's name, address, telephone number, gender, and date and place of birth;
 - (2) An affirmation that the applicant is a resident of the state of Missouri and has been a resident thereof for the last six months or is a member of the armed forces stationed in Missouri or the spouse of such a member of the armed forces and is a citizen of the United States;
 - (3) An affirmation that the applicant is at least twenty-three years of age;
 - (4) An affirmation that the applicant has not pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws
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of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun;

(5) An affirmation that the applicant has not been convicted of, pled guilty to, or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement or if the applicant has not been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification to obtain a concealed carry endorsement;

(6) An affirmation that the applicant is not a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of two years or less that does not involve an explosive weapon, firearm, firearm silencer or gas gun;

(7) An affirmation that the applicant has not been discharged under dishonorable conditions from the United States armed forces;

(8) An affirmation that the applicant is not adjudged mentally incompetent at the time of application or for five years prior to application, or has not been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter 632, RSMo, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply;

(9) An affirmation that the applicant has received firearms safety training that meets the standards of applicant firearms safety training defined in subsection 22 or 23 of this section;

(10) An affirmation that the applicant, to the applicant's best knowledge and belief, is not the respondent of a valid full order of protection which is still in effect; and

(11) A conspicuous warning that false statements made by the applicant will result in prosecution for perjury pursuant to the laws of the state of Missouri.

4. An application for a certificate of qualification for a concealed carry endorsement shall be made to the sheriff of the county or any city not within a county in which the applicant resides. An application shall be filed in writing, signed under oath and under the penalties of perjury, and shall state whether the applicant complies with each of the requirements specified in subsection 2 of this section. In addition to the completed application, the applicant for a certificate of qualification for a concealed carry endorsement must also submit the following:

(1) A photocopy of a firearms safety training certificate of completion or other evidence of completion of a firearms safety training course that meets the standards established in subsection 22 or 23 of this section; and

(2) A nonrefundable certificate of qualification fee as provided by subsection 10 or 11 of this section.

5. Before an application for a certificate of qualification for a concealed carry endorsement is approved, the sheriff shall make only such inquiries as he or she deems necessary into the accuracy of the statements made in the application. The sheriff may require that the applicant display a Missouri driver's license or nondriver's license or military identification and orders showing the person being stationed in Missouri. In order to determine the applicant's suitability for a certificate of qualification for a concealed carry endorsement, the applicant shall be fingerprinted. The sheriff shall request a criminal background check through the appropriate law enforcement agency within three working days after submission of the properly completed application for a

certificate of qualification for a concealed carry endorsement. If no disqualifying record is identified by the fingerprint check at the state level, the fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Upon receipt of the completed background check, the sheriff shall issue a certificate of qualification for a concealed carry endorsement within three working days. The sheriff shall issue the certificate within forty-five calendar days if the criminal background check has not been received, provided that the sheriff shall revoke any such certificate and endorsement within twenty-four hours of receipt of any background check that results in a disqualifying record, and shall notify the department of revenue.

6. The sheriff may refuse to approve an application for a certificate of qualification for a concealed carry endorsement if he or she determines that any of the requirements specified in subsection 2 of this section have not been met, or if he or she has a substantial and demonstrable reason to believe that the applicant has rendered a false statement regarding any of the provisions of this section. If the applicant is found to be ineligible, the sheriff is required to deny the application, and notify the applicant in writing, stating the grounds for denial and informing the applicant of the right to submit, within thirty days, any additional documentation relating to the grounds of the denial. Upon receiving any additional documentation, the sheriff shall reconsider his or her decision and inform the applicant within thirty days of the result of the reconsideration. The applicant shall further be informed in writing of the right to appeal the denial pursuant to subsections 29, 30, 31, and 32 of this section. After two additional reviews and denials by the sheriff, the person submitting the application shall appeal the denial pursuant to subsections 29, 30, 31, and 32 of this section.

7. If the application is approved, the sheriff shall issue a certificate of qualification for a concealed carry endorsement to the applicant within a period not to exceed three working days after his or her approval of the application. The applicant shall sign the certificate of qualification in the presence of the sheriff or his or her designee and shall within seven days of receipt of the certificate of qualification take the certificate of qualification to the department of revenue. Upon verification of the certificate of qualification and completion of a driver's license or nondriver's license application pursuant to chapter 302, RSMo, the director of revenue shall issue a new driver's license or nondriver's license with an endorsement which identifies that the applicant has received a certificate of qualification to carry concealed weapons issued pursuant to this section if the applicant is otherwise qualified to receive such driver's license or nondriver's license. The requirements for the director of revenue to issue a concealed carry endorsement pursuant to this subsection shall not be effective until July 1, 2004, and the certificate of qualification issued by a county sheriff pursuant to subsection 1 of this section shall allow the person issued such certificate to carry a concealed weapon pursuant to the requirements of subsection 20 of this section in lieu of the concealed carry endorsement issued by the director of revenue from the effective date of this section until the concealed carry endorsement is issued by the director of revenue on or after July 1, 2004, unless such certificate of qualification has been suspended or revoked for cause.

8. The sheriff shall keep a record of all applications for a certificate of qualification for a concealed carry endorsement and his or her action thereon. The sheriff shall report the issuance of a certificate of qualification to the Missouri uniform law enforcement system. All information on any such certificate that is protected information on any drivers or nondriver's license shall have the same personal protection for purposes of this section. An applicant's status as a holder of a certificate of qualification or a concealed carry endorsement shall not be public information and shall be considered personal protected information. Any person who violates the provisions of this subdivision by disclosing protected information shall be guilty of a class A misdemeanor.

9. Information regarding any holder of a certificate of qualification or a concealed carry endorsement is a closed record.

10. For processing an application for a certificate of qualification for a concealed carry endorsement pursuant to this section, the sheriff in each county shall charge a nonrefundable fee not to exceed one hundred dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

11. For processing a renewal for a certificate of qualification for a concealed carry endorsement pursuant to this section, the sheriff in each county shall charge a nonrefundable fee not to exceed fifty dollars which shall be paid to the treasury of the county to the credit of the sheriff's revolving fund.

12. For the purposes of this section, the term sheriff shall include the sheriff of any county or city not within a county or his or her designee and in counties of the first classification the sheriff may designate the chief of police of any city, town, or municipality within such county.

13. (1) A concealed carry endorsement issued pursuant to this section shall be suspended or revoked if the concealed carry endorsement holder becomes ineligible for such concealed carry endorsement under the criteria established in subdivisions (2), (3), (4), (5), and (7) of subsection 2 of this section or upon the issuance of a valid full order of protection.

(2) When a valid full order of protection, or any arrest warrant, discharge, or commitment for the reasons listed in subdivision (2), (3), (4), (5), or (7) of subsection 2 of this section, is issued against a person holding a concealed carry endorsement issued pursuant to this section upon notification of said order, warrant, discharge or commitment or upon an order of a court of competent jurisdiction in a criminal proceeding, a commitment proceeding or a full order of protection proceeding ruling that a person holding a concealed carry endorsement presents a risk of harm to themselves or others, then upon notification of such order, the holder of the concealed carry endorsement shall surrender the driver's license or nondriver's license containing the concealed carry endorsement to the court, to the officer, or other official serving the order, warrant, discharge, or commitment.

(3) The official to whom the driver's license or nondriver's license containing the concealed carry endorsement is surrendered shall issue a receipt to the licensee for the license upon a form, approved by the director of revenue, that serves as a driver's license or a nondriver's license and clearly states the concealed carry endorsement has been suspended. The official shall then transmit the driver's license or a nondriver's license containing the concealed carry endorsement to the circuit court of the county issuing the order, warrant, discharge, or commitment. The concealed carry endorsement issued pursuant to this section shall be suspended until the order is terminated or until the arrest results in a dismissal of all charges. Upon dismissal, the court holding the driver's license or nondriver's license containing the concealed carry endorsement shall return it to the individual.

(4) Any conviction, discharge, or commitment specified in this section shall result in a revocation. Upon conviction, the court shall forward a notice of conviction or action and the driver's license or nondriver's license with the concealed carry endorsement to the department of revenue. The department of revenue shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and shall report the change in status of the concealed carry endorsement to the Missouri uniform law enforcement system. The director of revenue shall immediately remove the endorsement issued pursuant to this section from the individual's driving record within three days of the receipt of the notice from the court. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302, RSMo, which does not contain such endorsement. This requirement does not affect the driving

privileges of the licensee. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

14. A concealed carry endorsement shall be renewed for a qualified applicant upon receipt of the properly completed renewal application and the required renewal fee by the sheriff of the county of the applicant's residence. The renewal application shall contain the same required information as set forth in subsection 3 of this section, except that in lieu of the fingerprint requirement of subsection 5 and the firearms safety training, the applicant need only display his or her current driver's license or nondriver's license containing a concealed carry endorsement. Upon successful completion of all renewal requirements, the sheriff shall issue a certificate of qualification which contains the date such certificate was renewed.

15. A person who has been issued a certificate of qualification for a concealed carry endorsement who fails to file a renewal application on or before its expiration date must pay an additional late fee of ten dollars per month for each month it is expired for up to six months. After six months, the sheriff who issued the expired certificate shall notify the director of revenue that such certificate is expired. The director of revenue shall immediately cancel the concealed carry endorsement and remove such endorsement from the individual's driving record and notify the individual of such cancellation. The notice of cancellation of the endorsement shall be conducted in the same manner as described in subsection 13 of this section. Any person who has been issued a certificate of qualification for a concealed carry endorsement pursuant to this section who fails to renew his or her application within the six-month period must reapply for a new certificate of qualification for a concealed carry endorsement and pay the fee for a new application. The director of revenue shall not issue an endorsement on a renewed driver's license or renewed nondriver's license unless the applicant for such license provides evidence that he or she has renewed the certification of qualification for a concealed carry endorsement in the manner provided for such renewal pursuant to this section. If an applicant for renewal of a driver's license or nondriver's license containing a concealed carry endorsement does not want to maintain the concealed carry endorsement, the applicant shall inform the director at the time of license renewal of his or her desire to remove the endorsement. When a driver or nondriver's license applicant informs the director of his or her desire to remove the concealed carry endorsement, the director shall renew the driver's license or nondriver's license without the endorsement appearing on the license if the applicant is otherwise qualified for such renewal.

16. Any person issued a concealed carry endorsement pursuant to this section shall notify the department of revenue and the sheriffs of both the old and new jurisdictions of the endorsement holder's change of residence within thirty days after the changing of a permanent residence. The endorsement holder shall furnish proof to the department of revenue and the sheriff in the new jurisdiction that the endorsement holder has changed his or her residence. The change of residence shall be made by the department of revenue onto the individual's driving record and the new address shall be accessible by the Missouri uniform law enforcement system within three days of receipt of the information.

17. Any person issued a driver's license or nondriver's license containing a concealed carry endorsement pursuant to this section shall notify the sheriff or his or her designee of the endorsement holder's county or city of residence within seven days after actual knowledge of the loss or destruction of his or her driver's license or nondriver's license containing a concealed carry endorsement. The endorsement holder shall furnish a statement to the sheriff that the driver's license or nondriver's license containing the concealed carry endorsement has been lost or destroyed. After notification of the loss or destruction of a driver's license or nondriver's license containing a concealed carry

endorsement, the sheriff shall reissue a new certificate of qualification within three working days of being notified by the concealed carry endorsement holder of its loss or destruction. The reissued certificate of qualification shall contain the same personal information, including expiration date, as the original certificate of qualification. The applicant shall then take the certificate to the department of revenue, and the department of revenue shall proceed on the certificate in the same manner as provided in subsection 7 of this section. Upon application for a license pursuant to chapter 302, RSMo, the director of revenue shall issue a driver's license or nondriver's license containing a concealed carry endorsement if the applicant is otherwise eligible to receive such license.

18. If a person issued a concealed carry endorsement changes his or her name, the person to whom the endorsement was issued shall obtain a corrected certificate of qualification for a concealed carry endorsement with a change of name from the sheriff who issued such certificate upon the sheriff's verification of the name change. The endorsement holder shall furnish proof of the name change to the department of revenue and the sheriff within thirty days of changing his or her name and display his or her current driver's license or nondriver's license containing a concealed carry endorsement. The endorsement holder shall apply for a new driver's license or nondriver's license containing his or her new name. Such application for a driver's license or nondriver's license shall be made pursuant to chapter 302, RSMo. The director of revenue shall issue a driver's license or nondriver's license with concealed carry endorsement with the endorsement holder's new name if the applicant is otherwise eligible for such license. The director of revenue shall take custody of the old driver's license or nondriver's license. The name change shall be made by the department of revenue onto the individual's driving record and the new name shall be accessible by the Missouri uniform law enforcement system within three days of receipt of the information.

19. A concealed carry endorsement shall be automatically invalid after thirty days if the endorsement holder has changed his or her name or changed his or her residence and not notified the department of revenue and sheriff of a change of name or residence as required in subsections 16 and 18 of this section.

20. A concealed carry endorsement issued pursuant to this section or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize the person in whose name the permit or endorsement is issued to carry concealed firearms on or about his or her person or vehicle throughout the state. No driver's license or nondriver's license containing a concealed carry endorsement issued pursuant to this section or a concealed carry endorsement or permit issued by another state or political subdivision of another state shall authorize any person to carry concealed firearms into:

(1) Any police, sheriff, or highway patrol office or station without the consent of the chief law enforcement officer in charge of that office or station. Possession of a firearm in a vehicle on the premises of the office or station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(2) Within twenty-five feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(4) Any courthouse solely occupied by the circuit, appellate or supreme court, or any courtrooms, administrative offices, libraries or other rooms of any such court whether or not such court solely occupies the building in question. This subdivision shall also include, but not be limited to, any juvenile, family, drug, or other court offices, any room or office wherein any of the courts or offices listed in this subdivision are temporarily conducting any business within the jurisdiction of such courts or offices, and such other locations in such manner as may be specified by supreme court rule pursuant to subdivision (6) of this subsection. Nothing in this subdivision shall preclude those persons listed in subdivision (1) of subsection 2 of section 571.030 while within their jurisdiction and on duty, those persons listed in subdivisions (2) and (4) of subsection 2 of section 571.030, or such other persons who serve in a law enforcement capacity for a court as may be specified by supreme court rule pursuant to subdivision (6) of this subsection, from carrying a concealed firearm within any of the areas described in this subdivision. Possession of a firearm in a vehicle on the premises of any of the areas listed in this subdivision shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(5) Any meeting of the governing body of a unit of local government; or any meeting of the general assembly or a committee of the general assembly, except that nothing in this subdivision shall preclude a member of the body, holding a valid concealed carry endorsement from carrying a concealed firearm at a meeting of the body which he or she is a member. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(6) The general assembly, supreme court, county or municipality may by rule, administrative regulation, or ordinance, prohibit or limit the carrying of concealed firearms by endorsement holders in that portion of a building owned, leased or controlled by that unit of government. Any portion of a building in which the carrying of concealed firearms is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute, rule or ordinance shall exempt any building used for public housing by private persons, highways or rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of a firearm. The statute, rule or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute, rule or ordinance may be denied entrance to the building, ordered to leave the building and if employees of the unit of government, be subjected to disciplinary measures for violation of the provisions of the statute, rule or ordinance. The provisions of this subdivision shall not apply to any other unit of government;

(7) Any establishment licensed to dispense intoxicating liquor or nonintoxicating beer for consumption on the premises, which portion is primarily devoted to that purpose without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty persons and that receives at least fifty-one percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;

(8) Any area of an airport to which access is controlled by the inspection of persons and property. Possession of a firearm in a vehicle on the premises of the airport shall not

be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(9) Any place where the carrying of a firearm is prohibited by federal law;

(10) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(11) Any portion of a building used as a child care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a driver's license or nondriver's license containing a concealed carry endorsement;

(12) Any riverboat gambling operation accessible by the public without the consent of the owner or manager pursuant to rules promulgated by the gaming commission. Possession of a firearm in a vehicle on the premises of a riverboat gambling operation shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(13) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(14) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(15) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one or more signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches with the writing thereon in letters of not less than one inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(16) Any sports arena or stadium with a seating capacity of five thousand or more. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;

(17) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

21. Carrying of a concealed firearm in a location specified in subdivisions (1) to (17) of subsection 20 of this section by any individual who holds concealed carry endorsement issued pursuant to this section shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for an

amount not to exceed one hundred dollars for the first offense. If a second citation for a similar violation occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars and his or her endorsement to carry concealed firearms shall be suspended for a period of one year. If a third citation for a similar violation is issued within one year of the first citation such person shall be fined an amount not to exceed five hundred dollars and shall have his or her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three years. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue. The sheriff shall suspend or revoke the certificate of qualification for a concealed carry endorsement and the department of revenue shall issue a notice of such suspension or revocation of the concealed carry endorsement and take action to remove the concealed carry endorsement from the individual's driving record. The director of revenue shall notify the licensee that he or she must apply for a new license pursuant to chapter 302, RSMo, which does not contain such endorsement. A concealed carry endorsement suspension pursuant to this section shall be reinstated at the time of the renewal of his or her driver's license. The notice issued by the department of revenue shall be mailed to the last known address shown on the individual's driving record. The notice is deemed received three days after mailing.

22. An applicant for a concealed carry endorsement shall demonstrate knowledge of firearms safety training. This requirement shall be fully satisfied if the applicant for a concealed carry endorsement:

(1) Submits a photocopy of a certificate of firearms safety training course completion, as defined in subsection 23 of this section, signed by a qualified firearms safety instructor as defined in subsection 26 of this section; or

(2) Submits a photocopy of a certificate that shows the applicant completed a firearms safety course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(3) Is a qualified firearms safety instructor as defined in subsection 26 of this section.

23. A certificate of firearms safety training course completion may be issued to any applicant by any qualified firearms safety instructor. On the certificate of course completion the qualified firearms safety instructor shall affirm that the individual receiving instruction has taken and passed a firearms safety course of at least eight hours in length taught by the instructor that included:

(1) Handgun safety in the classroom, at home, on the firing range and while carrying the firearm;

(2) A physical demonstration performed by the applicant that demonstrated his or her ability to safely load and unload a revolver and a semiautomatic pistol and demonstrated his or her marksmanship with both;

(3) The basic principles of marksmanship;

(4) Care and cleaning of concealable firearms;

(5) Safe storage of firearms at home;

(6) The requirements of this state for obtaining a certificate of qualification for a concealed carry endorsement from the sheriff of the individual's county of residence and a concealed carry endorsement issued by the department of revenue;

(7) The laws relating to firearms as prescribed in this chapter;

(8) The laws relating to the justifiable use of force as prescribed in chapter 563, RSMo;

(9) A live firing exercise of sufficient duration for each applicant to fire a handgun, from a standing position or its equivalent, a minimum of fifty rounds at a distance of seven yards from a B-27 silhouette target or an equivalent target;

(10) A live fire test administered to the applicant while the instructor was present of twenty rounds from a standing position or its equivalent at a distance from a B-27 silhouette target, or an equivalent target, of seven yards.

24. A qualified firearms safety instructor shall not give a grade of "passing" to an applicant for a concealed carry endorsement who:

(1) Does not follow the orders of the qualified firearms instructor or cognizant range officer; or

(2) Handles a firearm in a manner that, in the judgement of the qualified firearm safety instructor, poses a danger to the applicant or to others; or

(3) During the live fire testing portion of the course fails to hit the silhouette portion of the targets with at least fifteen rounds.

25. Qualified firearms safety instructors who provide firearms safety instruction to any person who applies for a concealed carry endorsement shall:

(1) Make the applicant's course records available upon request to the sheriff of the county in which the applicant resides;

(2) Maintain all course records on students for a period of no less than four years from course completion date; and

(3) Not have more than forty students in the classroom portion of the course or more than five students per range officer engaged in range firing.

26. A firearms safety instructor shall be considered to be a qualified firearms safety instructor by any sheriff issuing a certificate of qualification for a concealed carry endorsement pursuant to this section if the instructor:

(1) Is a valid firearms safety instructor certified by the National Rifle Association holding a rating as a personal protection instructor or pistol marksmanship instructor; or

(2) Submits a photocopy of a certificate from a firearms safety instructor's course offered by a local, state, or federal governmental agency; or

(3) Submits a photocopy of a certificate from a firearms safety instructor course approved by the department of public safety; or

(4) Has successfully completed a firearms safety instructor course given by or under the supervision of any state, county, municipal, or federal law enforcement agency; or

(5) Is a certified police officer firearms safety instructor.

27. Any firearms safety instructor who knowingly provides any sheriff with false information concerning an applicant's performance on the live fire exercise or test administered to the applicant by the instructor pursuant to subdivision (9) or (10) of subsection 23 of this section shall be guilty of a class C misdemeanor.

28. In any case when the sheriff refuses to issue a certificate of qualification or to act on an application for such certificate, the denied applicant shall have the right to appeal the denial within thirty days of receiving written notice of the denial. Such appeals shall be heard in small claims court as defined in section 482.300, RSMo, and the provisions of sections 482.300, 482.310 and 482.335, RSMo, shall apply to such appeals.

29. A denial of or refusal to act on an application for a certificate of qualification may be appealed by filing with the clerk of the small claims court a copy of the sheriff's written refusal and a form substantially similar to the appeal form provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of..... Missouri

....., Denied Applicant

vs.

Case Number.....

....., Sheriff

Return Date

**APPEAL OF A DENIAL OF CERTIFICATE OF QUALIFICATION
FOR A CONCEALED CARRY ENDORSEMENT**

The denied applicant states that his or her properly completed application for a certificate of qualification for a concealed carry endorsement was denied by the sheriff of County, Missouri, without just cause. The denied applicant affirms that all of the statements in the application are true.

....., Denied Applicant

30. The notice of appeal in a denial of a certificate of qualification for a concealed carry endorsement appeal shall be made to the sheriff in a manner and form determined by the small claims court judge.

31. If at the hearing the person shows he or she is entitled to the requested certificate of qualification for a concealed carry endorsement, the court shall issue an appropriate order to cause the issuance of the certificate of qualification for a concealed carry endorsement. Costs shall not be assessed against the sheriff unless the action of the sheriff is determined by the judge to be arbitrary and capricious.

32. Any person aggrieved by any final judgment rendered by a small claims court in a denial of a certificate of qualification for a concealed carry endorsement appeal may have a right to trial de novo as provided in sections 512.180 to 512.320, RSMo.

33. Any person who has knowledge that another person, who was issued a certificate of qualification for a concealed carry endorsement pursuant to this section, never was or no longer is eligible for such endorsement under the criteria established in this section, may file a petition with the clerk of the small claims court to revoke that person's certificate of qualification for a concealed carry endorsement and such person's concealed carry endorsement. The petition shall be in a form substantially similar to the petition for revocation of concealed carry endorsement provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of Missouri

....., PLAINTIFF

vs.

Case Number

....., DEFENDANT,
Carry Endorsement Holder

....., DEFENDANT,
Sheriff of Issuance

**PETITION FOR REVOCATION
OF CERTIFICATE OF QUALIFICATION
OR CONCEALED CARRY ENDORSEMENT**

Plaintiff states to the court that the defendant,, has a certificate of qualification or a concealed carry endorsement issued pursuant to section 571.094, RSMo, and that the defendant's certificate of qualification or concealed carry endorsement should now be revoked because the defendant either never was or no longer is eligible for such a certificate or endorsement pursuant to the provisions of section

571.094, RSMo, specifically plaintiff states that defendant,, never was or no longer is eligible for such certificate or endorsement for one or more of the following reasons:

(CHECK BELOW EACH REASON THAT APPLIES TO THIS DEFENDANT)

- ☐ Defendant is not at least twenty-three years of age.
- ☐ Defendant is not a citizen of the United States.
- ☐ Defendant had not resided in this state for at least six months prior to issuance of the permit and does not qualify as a military member or spouse of a military member stationed in Missouri.
- ☐ Defendant has pled guilty to or been convicted of a crime punishable by imprisonment for a term exceeding one year under the laws of any state or of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.
- ☐ Defendant has been convicted of, pled guilty to or entered a plea of nolo contendere to one or more misdemeanor offenses involving crimes of violence within a five-year period immediately preceding application for a certificate of qualification or concealed carry endorsement issued pursuant to section 571.094, RSMo, or if the applicant has been convicted of two or more misdemeanor offenses involving driving while under the influence of intoxicating liquor or drugs or the possession or abuse of a controlled substance within a five-year period immediately preceding application for a certificate of qualification or a concealed carry endorsement issued pursuant to section 571.094, RSMo.
- ☐ Defendant is a fugitive from justice or currently charged in an information or indictment with the commission of a crime punishable by imprisonment for a term exceeding one year under the laws of any state of the United States other than a crime classified as a misdemeanor under the laws of any state and punishable by a term of imprisonment of one year or less that does not involve an explosive weapon, firearm, firearm silencer, or gas gun.
- ☐ Defendant has been discharged under dishonorable conditions from the United States armed forces.
- ☐ Defendant is reasonably believed by the sheriff to be a danger to self or others based on previous, documented pattern.
- ☐ Defendant is adjudged mentally incompetent at the time of application or for five years prior to application, or has been committed to a mental health facility, as defined in section 632.005, RSMo, or a similar institution located in another state, except that a person whose release or discharge from a facility in this state pursuant to chapter 632, RSMo, or a similar discharge from a facility in another state, occurred more than five years ago without subsequent recommitment may apply.
- ☐ Defendant failed to submit a completed application for a certificate of qualification or concealed carry endorsement issued pursuant to section 571.094, RSMo.
- ☐ Defendant failed to submit to or failed to clear the required background check.
- ☐ Defendant failed to submit an affidavit attesting that the applicant complies with the concealed carry safety training requirement pursuant to subsection 22 of section 571.094, RSMo.

The plaintiff subject to penalty for perjury states that the information contained in this petition is true and correct to the best of the plaintiff's knowledge, is reasonably based upon the petitioner's personal knowledge and is not primarily intended to harass the defendant/respondent named herein.

....., PLAINTIFF

34. If at the hearing the plaintiff shows that the defendant was not eligible for the certificate of qualification or the concealed carry endorsement issued pursuant to this section, at the time of issuance or renewal or is no longer eligible for a certificate of

qualification or the concealed carry endorsement issued pursuant to the provisions of this section, the court shall issue an appropriate order to cause the revocation of the certificate of qualification or concealed carry endorsement. Costs shall not be assessed against the sheriff.

35. The finder of fact, in any action brought against an endorsement holder pursuant to subsection 33 of this section, shall make findings of fact and the court shall make conclusions of law addressing the issues at dispute. If it is determined that the plaintiff in such an action acted without justification or with malice or primarily with an intent to harass the endorsement holder or that there was no reasonable basis to bring the action, the court shall order the plaintiff to pay the defendant/respondent all reasonable costs incurred in defending the action including, but not limited to, attorney's fees, deposition costs, and lost wages. Once the court determines that the plaintiff is liable to the defendant/respondent for costs and fees, the extent and type of fees and costs to be awarded should be liberally calculated in defendant/respondent's favor. Notwithstanding any other provision of law, reasonable attorney's fees shall be presumed to be at least one hundred fifty dollars per hour.

36. Any person aggrieved by any final judgment rendered by a small claims court in a petition for revocation of a certificate of qualification or concealed carry endorsement may have a right to trial de novo as provided in sections 512.180 to 512.320, RSMo.

37. The office of the county sheriff or any employee or agent of the county sheriff shall not be liable for damages in any civil action arising from alleged wrongful or improper granting, renewing, or failure to revoke a certificate of qualification or a concealed carry endorsement issued pursuant to this section, so long as the sheriff acted in good faith.

38. Any person issued a concealed carry endorsement pursuant to this section shall carry the concealed carry endorsement at all times the person is carrying a concealed firearm and shall display the concealed carry endorsement upon the request of any peace officer. Failure to comply with this subsection shall not be a criminal offense but the concealed carry endorsement holder may be issued a citation for an amount not to exceed thirty-five dollars.

39. Notwithstanding any other provisions of law, the director of revenue by carrying out his or her requirement to issue a driver or nondriver's license reflecting that a concealed carry permit has been granted, shall bear no liability and shall be immune from any claims for damages resulting from any determination made regarding the qualification of any person for such permit or for any actions stemming from the conduct of any person issued such a permit. By issuing the permit on the driver or nondriver's license the director of revenue is merely acting as a scrivener for any determination made by the sheriff that the person is qualified for the permit.

Vetoed by Governor July 3, 2003
Veto overridden September 11, 2003

SB 13 [SS SB 13]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits certain suits by political subdivisions and the state against firearm manufacturers and dealers.

AN ACT to repeal section 21.750, RSMo, relating to rights of political subdivisions, and to enact in lieu thereof one new section relating to the same subject.

SECTION

- A. Enacting clause.
21.750. Firearms legislation preemption by general assembly, exceptions, lawful design, marketing, distribution or sale of firearm does not constitute public or private nuisance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 21.750, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 21.750, to read as follows:

21.750. FIREARMS LEGISLATION PREEMPTION BY GENERAL ASSEMBLY, EXCEPTIONS, LAWFUL DESIGN, MARKETING, DISTRIBUTION OR SALE OF FIREARM DOES NOT CONSTITUTE PUBLIC OR PRIVATE NUISANCE. — 1. The general assembly hereby occupies and preempts the entire field of legislation touching in any way firearms, components, ammunition and supplies to the complete exclusion of any order, ordinance or regulation by any political subdivision of this state. Any existing or future orders, ordinances or regulations in this field are hereby and shall be null and void except as provided in subsection 3 of this section.

2. No county, city, town, village, municipality, or other political subdivision of this state shall adopt any order, ordinance or regulation concerning in any way the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permit, registration, taxation other than sales and compensating use taxes or other controls on firearms, components, ammunition, and supplies except as provided in subsection 3 of this section.

3. Nothing contained in this section shall prohibit any ordinance of any political subdivision which conforms exactly with any of the provisions of sections 571.010 to 571.070, RSMo, with appropriate penalty provisions, or which regulates the open carrying of firearms readily capable of lethal use or the discharge of firearms within a jurisdiction. [This section shall take effect on January 1, 1985.]

4. The lawful design, marketing, manufacture, distribution, or sale of firearms or ammunition to the public is not an abnormally dangerous activity and does not constitute a public or private nuisance.

5. No county, city, town, village or any other political subdivision nor the state shall bring suit or have any right to recover against any firearms or ammunition manufacturer, trade association or dealer for damages, abatement or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, distribution, or sale of firearms or ammunition to the public. This subsection shall apply to any suit pending as of the effective date of this section, as well as any suit which may be brought in the future. Provided, however, that nothing in this section shall restrict the rights of individual citizens to recover for injury or death caused by the negligent or defective design or manufacture of firearms or ammunition.

6. Nothing in this section shall prevent the state, a county, city, town, village or any other political subdivision from bringing an action against a firearms or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the state or such political subdivision.

Vetoed by Governor July 9, 2003
Veto overridden September 12, 2003

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HB 1001 [HB 1001]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing and processing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds, and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund, and Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 1.010.— To the Board of Fund Commissioners
For annual fees, arbitrage rebate, refunding, and related expenses
From General Revenue Fund \$20,002E

SECTION 1.015.— There is transferred out of the State Treasury, chargeable
to the General Revenue Fund, to the Fourth State Building Bond and
Interest Fund for currently outstanding general obligations
From General Revenue Fund \$14,852,614

SECTION 1.020.— To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on fourth state
building bonds currently outstanding as provided by law
From Fourth State Building Bond and Interest Fund \$17,453,370

SECTION 1.025.— There is transferred out of the State Treasury, chargeable
to the General Revenue Fund, to the Water Pollution Control Bond and
Interest Fund for currently outstanding general obligations
From General Revenue Fund \$34,876,126

SECTION 1.030.— There is transferred out of the State Treasury, chargeable
to the Water and Wastewater Loan Revolving Fund pursuant to Title 33,
Chapter 26, Subchapter VI, Section 1383, U.S. Code, to the Water
Pollution Control Bond and Interest Fund for currently outstanding
general obligations
From Water and Wastewater Loan Revolving Fund \$996,472

SECTION 1.035.— To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on water pollution
control bonds currently outstanding as provided by law
From Water Pollution Control Bond and Interest Fund \$27,980,335

SECTION 1.040.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Stormwater Control Bond and Interest Fund for currently outstanding general obligations

From General Revenue Fund	\$3,176,510
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SECTION 1.045.— To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on stormwater control bonds currently outstanding as provided by law

From Stormwater Control Bond and Interest Fund	\$3,182,135
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SECTION 1.050.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Third State Building Bond Interest and Sinking Fund for currently outstanding general obligations

From General Revenue Fund	\$50,120,563
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SECTION 1.055.— To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on third state building bonds currently outstanding as provided by law

From Third State Building Bond Interest and Sinking Fund	\$46,532,913
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Approved May 7, 2004

HB 1002 [CCS SCS HS HCS HB 1002]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 2.005.— To the Department of Elementary and Secondary Education
For the Division of General Administration
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$2,676,377
Personal Service	1,182,169
Expense and Equipment	1,367,486
From Federal Funds	2,549,655

Personal Service	252,324
Expense and Equipment	<u>2,681,686</u>
From Excellence in Education Fund	2,934,010

Expense and Equipment	
From Federal Funds	1,500,000
From Lottery Proceeds Fund	<u>110,880</u>
Total (Not to exceed 96.50 F.T.E.)	\$9,770,922

SECTION 2.010.— To the Department of Elementary and Secondary Education
For construction and site acquisition costs to accommodate any reasonably
anticipated net enrollment increase caused by any reduction or elimination
of the voluntary transfer plan as approved by the United States Court of the
Eastern District of Missouri pursuant to Senate Bill 781 (1998)
From General Revenue Fund \$15,000,000

SECTION 2.015.— To the Department of Elementary and Secondary Education
For distributions to the free public schools under the School Foundation Program
as provided in Chapter 163, RSMo, as follows: At least \$1,808,136,395
for the Equity Formula; and no more than: \$373,955,326 for the Line 14
At-Risk Program; \$162,067,713 for Transportation; \$149,617,982 for
Special Education; \$11,096,925 for Remedial Reading; \$102,011,209 for
Early Childhood Special Education; \$24,870,104 for Gifted Education;
\$38,684,374 for Career Ladder contingent upon the passage of legislation
by the 92nd General Assembly that would allow the Career Ladder
Proration Factor to exceed the Basic State Aid Proration Factor, otherwise,
\$35,526,150 for Career Ladder; \$52,880,428 for Vocational Education;
\$30,304,651 for Early Childhood Development
From Outstanding Schools Trust Fund \$394,997,395
From State School Moneys Fund 2,246,747,105
From Lottery Proceeds Fund 111,880,607

For State Board of Education operated school programs
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund 43,404,143

Personal Service	1,606,500
Expense and Equipment	<u>2,527,581</u>
From Federal Funds	4,134,081

Expense and Equipment	
From Bingo Proceeds for Education Fund	<u>1,707,167</u>
Total (Not to exceed 882.59 F.T.E.)	\$2,802,870,498

SECTION 2.020.— To the Department of Elementary and Secondary Education
For early grade literacy programs offered at Southeast Missouri State University
From General Revenue Fund \$105,000
From Lottery Proceeds Fund 145,000
From Outstanding Schools Trust Fund 250,000
Total \$500,000

SECTION 2.025.— To the Department of Elementary and Secondary Education
For the School Food Services Program to reimburse schools for breakfasts and
lunches

From General Revenue Fund	\$3,487,799
From Federal Funds	<u>161,231,869E</u>
Total	\$164,719,668

SECTION 2.030.— To the Department of Elementary and Secondary Education
For distributions to the public elementary and secondary schools in this state,
pursuant to Chapters 149 and 163, RSMo, pertaining to the Fair Share Fund
From Fair Share Fund \$22,500,000E

SECTION 2.035.— To the Department of Elementary and Secondary Education
For distributions to the public elementary and secondary schools in this state,
pursuant to Chapters 144, 163, and 164, RSMo, pertaining to the School
District Trust Fund
From School District Trust Fund \$706,400,000E

SECTION 2.040.— To the Department of Elementary and Secondary Education
For the apportionment to school districts, and state board operated school
programs for expense and equipment, one-half the amount accruing to the
General Revenue Fund from County Foreign Insurance Tax
From General Revenue Fund \$73,950,000E

SECTION 2.045.— To the Department of Elementary and Secondary Education
For costs associated with school district bonds
From School District Bond Fund \$450,000

SECTION 2.050.— To the Department of Elementary and Secondary Education
For receiving and expending donations and federal funds provided that the
General Assembly shall be notified of the source of any new funds and
the purpose for which they shall be expended, in writing, prior to the
expenditure of said funds
From Federal and Other Funds \$15,000,000

SECTION 2.055.— To the Department of Elementary and Secondary Education
For the Division of School Improvement
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 29.19 F.T.E.) \$1,381,410

Personal Service	2,696,550
Expense and Equipment	<u>4,656,520</u>
From Federal Funds (Not to exceed 64.07 F.T.E.)	7,353,070

Personal Service	211,397
Expense and Equipment	<u>28,120</u>
From Outstanding Schools Trust Fund (Not to exceed 6.3 F.T.E.)	239,517

For the Division of Vocational and Adult Education
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 33.50 F.T.E.) 1,446,771

Personal Service	2,083,069
Expense and Equipment	<u>910,372</u>
From Federal Funds (Not to exceed 58.00 F.T.E.)	2,993,441

For the Division of Special Education

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 4.50 F.T.E.)	228,825
Personal Service	1,688,545
Expense and Equipment	590,842
From Federal Funds (Not to exceed 42.50 F.T.E.)	2,279,387

For the Division of Teacher Quality and Urban Education

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 27.00 F.T.E.)	1,032,716
Personal Service	36,207
Expense and Equipment	382,366
From Federal Funds (Not to exceed 1 F.T.E.)	418,573
Personal Service	52,609
Expense and Equipment	7,041
From Outstanding Schools Trust Fund (Not to exceed 1.00 F.T.E.)	59,650
Total (Not to exceed 267.06 F.T.E.)	\$17,433,360

SECTION 2.060.— To the Department of Elementary and Secondary Education

For the Technology Grants Program and for planning and implementing computer network infrastructure for public elementary and secondary schools, including computer access to the Department of Elementary and Secondary Education and to improve the use of classroom technology	
From Federal Funds	\$12,722,366

SECTION 2.065.— To the Department of Elementary and Secondary Education

For improving basic programs operated by local education agencies under Title I of the No Child Left Behind Act	
From Federal Funds	\$190,000,000E

SECTION 2.070.— To the Department of Elementary and Secondary Education

For the Reading First Grant Program under Title I of the No Child Left Behind Act	
From Federal Funds	\$29,908,815E

SECTION 2.075.— To the Department of Elementary and Secondary Education

For innovative educational program strategies under Title VI of the No Child Left Behind Act	
From Federal Funds	\$11,000,000E

SECTION 2.080.— To the Department of Elementary and Secondary Education

For programs for the gifted from interest earnings accruing in the Stephen Morgan Ferman Memorial for Education of the Gifted	
From State School Moneys Fund	\$10,000E

SECTION 2.085.— To the Department of Elementary and Secondary Education

For the Missouri Scholars and Fine Arts Academies	
From General Revenue Fund	\$511,568
From Lottery Proceeds Fund	158,156
Total	\$669,724

SECTION 2.090.— To the Department of Elementary and Secondary Education

For reimbursements to school districts for the Early Childhood Program,
 Hard-to-Reach Incentives, and Parent Education in conjunction with
 the Early Childhood Education and Screening Program

From General Revenue Fund	\$73,200
From Federal Funds	824,000
From State School Moneys Fund	125,000

For grants to higher education institutions or area vocational technical schools
 for the Child Development Associate Certificate Program in collaboration
 with the Coordinating Board for Higher Education

From Federal Funds	400,000
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For grants to school districts under the Early Childhood Development, Education
 and Care Program, including up to \$25,000 in expense and equipment,
 for program administration

From Early Childhood Development, Education and Care Fund	16,545,112
Total	\$17,967,312

SECTION 2.095.— To the Department of Elementary and Secondary Education

For the A+ Schools Program

From General Revenue Fund	\$46,860
From Lottery Proceeds Fund	12,563,100
Total	\$12,609,960

SECTION 2.100.— To the Department of Elementary and Secondary Education

For the Performance Based Assessment Program

From General Revenue Fund	\$378,355
From Federal Funds	7,184,722
From Outstanding Schools Trust Fund	128,125
From Lottery Proceeds Fund	4,568,630
Total	\$12,259,832

SECTION 2.105.— To the Department of Elementary and Secondary Education

For courses, exams, and other expenses that lead to high school students
 receiving college credit and Advanced Placement examination fees for
 low-income families

From Federal Funds	\$407,250
From Lottery Proceeds Fund	355,893
Total	\$763,143

SECTION 2.110.— To the Department of Elementary and Secondary Education

For the Instructional Improvement Grants Program pursuant to Title II

Improving Teacher Quality

From Federal Funds	\$74,348,890E
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SECTION 2.115.— To the Department of Elementary and Secondary Education

For the Safe and Drug Free Schools Grants Program pursuant to Title IV of the
 No Child Left Behind Act

From Federal Funds	\$9,600,000E
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SECTION 2.120.— To the Department of Elementary and Secondary Education

For a safe schools initiative to include, but not be limited to, safe school grants,
 alternative education program grants, equipment, anti-violence curriculum
 development, and conflict resolution

From Lottery Proceeds Fund \$4,122,368

SECTION 2.125.— To the Department of Elementary and Secondary Education
For the Public Charter Schools Program

From Federal Funds \$2,432,000

SECTION 2.130.— To the Department of Elementary and Secondary Education
For teacher education student scholarships at four-year colleges or universities
in Missouri pursuant to the Excellence in Education Act

From General Revenue Fund \$249,000

For minority student scholarships pursuant to Section 161.415, RSMo

From Lottery Proceeds Fund 200,000

Total \$449,000

SECTION 2.135.— To the Department of Elementary and Secondary Education
For grants to public schools for whole-school, research-based reform programs

From Federal Funds \$8,000,000E

SECTION 2.140.— To the Department of Elementary and Secondary Education
For grants to rural and low-income schools

From Federal Funds \$2,100,000

SECTION 2.145.— To the Department of Elementary and Secondary Education
For language acquisition pursuant to Title III of the No Child Left Behind Act

From Federal Funds \$2,600,000

SECTION 2.150.— To the Department of Elementary and Secondary Education
For the Refugee Children School Impact Grants Program

From Federal Funds \$800,000

SECTION 2.155.— To the Department of Elementary and Secondary Education
For character education initiatives

From Federal Funds \$600,000

From Lottery Proceeds Fund 250,000

Total \$850,000

SECTION 2.160.— To the Department of Elementary and Secondary Education
For the Gold Star Schools Program

From Federal Funds \$15,000

SECTION 2.165.— To the Department of Elementary and Secondary Education
For the Schools with Distinction Program

From Federal Funds \$13,000

SECTION 2.170.— To the Department of Elementary and Secondary Education
For the Transition to Teaching Program

From Federal Funds \$1,000,000

For the Missouri State Action for Education Leadership Project

From Federal Funds 300,000

Total \$1,300,000

SECTION 2.175.— To the Department of Elementary and Secondary Education
For the Division of Vocational Rehabilitation

Personal Service	\$317,538
Expense and Equipment	6,680
From General Revenue Fund	<u>324,218</u>

Personal Service	25,664,782
Expense and Equipment	4,415,897
From Federal Funds	<u>30,080,679</u>
Total (Not to exceed 715.00 F.T.E.)	<u>\$30,404,897</u>

SECTION 2.180.— To the Department of Elementary and Secondary Education
For the Vocational Rehabilitation Program

From General Revenue Fund	\$10,811,624
From Federal Funds	36,687,893
From Payments by the Department of Mental Health	1,000,000
From Lottery Proceeds Fund	<u>1,400,000</u>
Total	<u>\$49,899,517</u>

SECTION 2.185.— To the Department of Elementary and Secondary Education
For the Disability Determination Program

From Federal Funds	\$16,000,000
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SECTION 2.190.— To the Department of Elementary and Secondary Education
For the Personal Care Assistance Program

From General Revenue Fund	\$30,752,563
From Federal Funds	<u>45,079,647</u>
Total	<u>\$75,832,210</u>

SECTION 2.191.— To the Department of Elementary and Secondary Education
For the purpose of funding Medicaid services for the Department of Elementary
and Secondary Education under the Medicaid-fee-for-service and
managed care programs. The single agency administering the Medicaid
program is only authorized to reimburse for benefits that exceed a
recipient's spend down amount

From General Revenue Fund	\$69,954
From Federal Funds	<u>33,299,954E</u>
Total	<u>\$33,369,908</u>

SECTION 2.195.— To the Department of Elementary and Secondary Education
For Independent Living Centers

From General Revenue Fund	\$2,156,486
From Federal Funds	1,592,546
From Independent Living Center Fund	<u>590,556</u>
Total	<u>\$4,339,588</u>

SECTION 2.200.— To the Department of Elementary and Secondary Education
For the Project SUCCESS Program

From Federal Funds	\$500,000
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SECTION 2.205.— To the Department of Elementary and Secondary Education
For distributions to providers of vocational education programs

From Federal Funds	\$27,000,000
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SECTION 2.210.— To the Department of Elementary and Secondary Education
For job training programs pursuant to the Workforce Investment Act

From Federal Funds	\$7,567,177E
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SECTION 2.215. — To the Department of Elementary and Secondary Education For distributions to educational institutions for the Adult Basic Education Program	
From General Revenue Fund	\$4,279,293
From Federal Funds	12,000,000
From Outstanding Schools Trust Fund	525,313
Total	<u>\$16,804,606</u>

SECTION 2.220. — To the Department of Elementary and Secondary Education For a grant award program for literacy and family literacy providers that offer services that are complementary to adult basic education	
From General Revenue Fund	\$1,184,991

SECTION 2.225. — To the Department of Elementary and Secondary Education For the School Age Child Care Program	
From Federal Funds	\$17,408,383

SECTION 2.230. — To the Department of Elementary and Secondary Education For the Troops to Teachers Program	
From Federal Funds	\$153,610

SECTION 2.235. — To the Department of Elementary and Secondary Education For the Special Education Program	
From Federal Funds	\$202,315,211E

SECTION 2.240. — To the Department of Elementary and Secondary Education For special education excess costs and severe disabilities services	
From Federal Funds	\$2,128,634E

SECTION 2.245. — To the Department of Elementary and Secondary Education For the First Steps Program, provided that any RFP for the First Steps program funded under this section shall contain an optional provision providing for contracts through an intergovernmental agreement with those agencies authorized pursuant to 205.968 through 205.972 RSMo., for administration of individual family support plan services for eligible children residing in such county. Any intergovernmental agreement may, at the election of the agency authorized pursuant to 205.968 through 205.972 RSMo., include system point of entry, services coordination, and other early intervention services authorized under the First Steps program	
From General Revenue Fund	\$5,790,511
From Federal Funds	10,506,837
From First Steps Fund	6,000,000
From Early Childhood Development, Education and Care Fund	5,286,042
Total	<u>\$27,583,390</u>

SECTION 2.250. — To the Department of Elementary and Secondary Education For payments to school districts for children in residential placements through the Department of Mental Health or the Department of Social Services pursuant to Section 167.126, RSMo	
From General Revenue Fund	\$2,330,731
From Lottery Proceeds Fund	7,768,606
Total	<u>\$10,099,337</u>

SECTION 2.255. — To the Department of Elementary and Secondary Education For operational maintenance and repairs for State Board of Education operated schools	
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From Facilities Maintenance Reserve Fund	\$57,950
From Lottery Proceeds Fund	342,754
Total	<u>\$400,704</u>

SECTION 2.260.— To the Department of Elementary and Secondary Education
For the Sheltered Workshops Program
From General Revenue Fund \$18,598,625

SECTION 2.265.— To the Department of Elementary and Secondary Education
For payments to readers for blind or visually disabled students in elementary and
secondary schools
From State School Moneys Fund \$25,000

SECTION 2.270.— To the Department of Elementary and Secondary Education
For a task force on blind student academic and vocational performance
From General Revenue Fund \$95,000

SECTION 2.275.— To the Department of Elementary and Secondary Education
For the Missouri School for the Deaf
From School for the Deaf Trust Fund \$25,000E

SECTION 2.280.— To the Department of Elementary and Secondary Education
For the Missouri School for the Blind
From School for the Blind Trust Fund \$1,500,000E

SECTION 2.285.— To the Department of Elementary and Secondary Education
For the State Schools for Severely Handicapped Children
From Handicapped Children's Trust Fund \$30,000E

SECTION 2.290.— To the Department of Elementary and Secondary Education
For the Missouri Commission for the Deaf and Hard of Hearing
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund \$260,777

Expense and Equipment
From Federal Funds 50,000
From Certification of Interpreters Fund 125,000
From Missouri Commission for the Deaf and Hard of Hearing Fund 50,000
Total (Not to exceed 7.00 F.T.E.) \$485,777

SECTION 2.295.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the General
Revenue Fund, to the State School Moneys Fund
From General Revenue Fund \$1,945,559,893

SECTION 2.300.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Gaming
Proceeds for Education Fund, to the State School Moneys Fund
From Gaming Proceeds for Education Fund \$239,950,000E

SECTION 2.305.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the General
Revenue Fund, to the Outstanding Schools Trust Fund
From General Revenue Fund \$396,200,000

SECTION 2.310.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the Gaming
Proceeds for Education Fund, to the School District Bond Fund
From Gaming Proceeds for Education Fund \$450,000

SECTION 2.315.— To the Department of Elementary and Secondary Education
Funds are to be transferred out of the State Treasury, chargeable to the School
Building Revolving Fund, to the State School Moneys Fund
From School Building Revolving Fund \$2,230,000E

BILL TOTALS

General Revenue Fund	\$2,562,386,690
Federal Funds	995,086,690
Other Funds	<u>1,209,356,093</u>
Total	<u>\$4,766,829,473</u>

Approved June 16, 2004

HB 1003 [CCS SCS HS HCS HB 1003]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education and the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 3.005.— To the Department of Higher Education
For Higher Education Coordination
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund \$805,825

For regulation of proprietary schools as provided in Section 173.600, RSMo
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund 158,742

For grant and scholarship program administration
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	281,356
Total (Not to exceed 21.90 F.T.E.)	<u>\$1,245,923</u>

SECTION 3.010.— To the Department of Higher Education
 For indemnifying individuals as a result of improper actions on the part of
 proprietary schools as provided in Section 173.612, RSMo
 From Proprietary School Bond Fund \$100,000

SECTION 3.015.— To the Department of Higher Education
 For annual membership in the Midwestern Higher Education Commission
 From General Revenue Fund \$82,500

SECTION 3.020.— To the Department of Higher Education
 For the State Anatomical Board
 From General Revenue Fund \$3,069

SECTION 3.025.— To the Department of Higher Education
 For the Eisenhower Science and Mathematics Program and the Improving Teacher
 Quality State Grants Program
 Personal Service \$58,025
 Expense and Equipment 20,400
 Federal Education Programs 1,698,000
 From Federal Funds (Not to exceed 1.00 F.T.E.) \$1,776,425

SECTION 3.030.— To the Department of Higher Education
 For receiving and expending donations and federal funds provided that the
 General Assembly shall be notified of the source of any new funds and
 the purpose for which they shall be expended, in writing, prior to the
 expenditure of said funds
 From Federal and Other Funds \$2,000,000

SECTION 3.035.— To the Department of Higher Education
 Funds are to be transferred out of the state treasury, chargeable to the
 General Revenue Fund, to the Academic Scholarship Fund
 From General Revenue Fund \$15,787,000

SECTION 3.040.— To the Department of Higher Education
 For the Higher Education Academic Scholarship Program pursuant to
 Chapter 173, RSMo
 From Academic Scholarship Fund \$15,787,000E

SECTION 3.045.— To the Department of Higher Education
 Funds are to be transferred out of the state treasury, chargeable to the
 funds listed below, to the Student Grant Fund
 From General Revenue Fund \$15,578,436
 From Federal Funds 1,000,000E
 From Missouri Student Grant Program Gift Fund 50,000E
 Total \$16,628,436

SECTION 3.050.— To the Department of Higher Education
 For the Charles E. Gallagher Grants (Student Grants) Program pursuant to
 Chapter 173, RSMo
 From Student Grant Fund \$16,628,436E

SECTION 3.055.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the funds listed below, to the Missouri College Guarantee Fund

From General Revenue Fund	\$425,000
From Lottery Proceeds Fund	<u>2,750,000</u>
Total	\$3,175,000

SECTION 3.060.— To the Department of Higher Education
For the Missouri College Guarantee Program pursuant to Chapter 173, RSMo
From Missouri College Guarantee Fund \$8,385,000E

SECTION 3.065.— To the Department of Higher Education
Funds are to be transferred out of the state treasury, chargeable to the General Revenue Fund, to the Advantage Missouri Trust Fund
From General Revenue Fund \$164,825

SECTION 3.070.— To the Department of Higher Education
For the Advantage Missouri Program pursuant to Chapter 173, RSMo
From Advantage Missouri Trust Fund \$164,825

SECTION 3.075.— To the Department of Higher Education
For the Public Service Officer or Employee Survivor Grant Program pursuant to Section 173.260, RSMo
From General Revenue Fund \$60,710

SECTION 3.080.— To the Department of Higher Education
For the Vietnam Veterans Survivors Scholarship Program pursuant to Section 173.235, RSMo
From General Revenue Fund \$83,570

SECTION 3.085.— To the Department of Higher Education
Funds are to be transferred out of the state treasury, chargeable to the General Revenue Fund, to the Marguerite Ross Barnett Scholarship Fund
From General Revenue Fund \$425,000

SECTION 3.090.— To the Department of Higher Education
For the Marguerite Ross Barnett Scholarship Program pursuant to Section 173.262, RSMo
From Marguerite Ross Barnett Scholarship Fund \$425,000E

SECTION 3.095.— To the Department of Higher Education
For the GEAR UP Program

Personal Service	\$219,160
Expense and Equipment	554,480
Federal Education Programs	<u>697,572</u>
From Federal Funds	1,471,212

For scholarships
From GEAR UP Scholarship Fund 200,000E
Total (Not to exceed 5.50 F.T.E.) \$1,671,212

SECTION 3.100.— To the Department of Higher Education
For the Missouri Guaranteed Student Loan Program

Personal Service	\$2,081,577
Expense and Equipment	8,167,406
Payment of fees for collection of defaulted loans	4,000,000E

Payment of penalties to the federal government associated with late deposit of default collections	500,000
From Guaranty Agency Operating Fund	14,748,983

Personal Service	90,320
Expense and Equipment	1,912,500
From U.S. Department of Education/Coordinating Board for Higher Education P.L. 105-33 Interest Account Fund	2,002,820
Total (Not to exceed 56.83 F.T.E.)	\$16,751,803

SECTION 3.105.— To the Department of Higher Education

For the E-Government Initiative

Personal Service	\$322,808
Expense and Equipment	114,400
From Guaranty Agency Operating Fund (Not to exceed 4.50 F.T.E.)	\$437,208

SECTION 3.110.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the Federal Student Loan Reserve Fund, to the Guaranty Agency Operating Fund

From Federal Student Loan Reserve Fund	\$8,000,000E
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SECTION 3.115.— To the Department of Higher Education

For purchase of defaulted loans, payment of default aversion fees, reimbursement to the federal government, and investment of funds in the Federal Student Loan Reserve Fund

From Federal Student Loan Reserve Fund	\$85,000,000
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SECTION 3.120.— To the Department of Higher Education

For payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund	\$250,000E
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SECTION 3.125.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the Guaranty Agency Operating Fund, to the Federal Student Loan Reserve Fund

From Guaranty Agency Operating Fund	\$1,000,000E
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SECTION 3.130.— To the Department of Higher Education

For distribution to community colleges as provided in Section 163.191, RSMo,

From General Revenue Fund	\$87,855,760
From Lottery Proceeds Fund	5,920,132

For program improvements in workforce preparation with the emphasis to provide education and training at community colleges for unemployed and under-employed citizens

From General Revenue Fund	1,644,085
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For selected out-of-district courses

From General Revenue Fund	1,175,986
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For workforce preparation projects

From General Revenue Fund	14,961,443
From Lottery Proceeds Fund	1,332,353

For Regional Technical Education Initiatives

From General Revenue Fund	20,448,307
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Total (0 F.T.E.) \$133,338,066

SECTION 3.135. — To the Department of Higher Education

For community colleges

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund \$250,000E

SECTION 3.140. — To Linn State Technical College

All Expenditures

From General Revenue Fund \$4,119,636

From Lottery Proceeds Fund 420,528

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund 30,000E

Total \$4,570,164

SECTION 3.145. — To Central Missouri State University

All Expenditures

From General Revenue Fund \$48,841,763

From Lottery Proceeds Fund 4,985,715

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund 75,000E

Total \$53,902,478

SECTION 3.150. — To Southeast Missouri State University

All Expenditures

From General Revenue Fund \$39,772,113

From Lottery Proceeds Fund 4,059,895

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund 75,000E

Total \$43,907,008

SECTION 3.155. — To Southwest Missouri State University

All Expenditures

From General Revenue Fund \$73,095,562

From Lottery Proceeds Fund 7,200,409

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund 75,000E

Total \$80,370,971

SECTION 3.160. — To Lincoln University

All Expenditures

From General Revenue Fund \$15,201,387

From Lottery Proceeds Fund 1,551,205

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	<u>\$16,827,592</u>

SECTION 3.165.— To Truman State University

All Expenditures

From General Revenue Fund	\$36,992,045
From Lottery Proceeds Fund	3,776,109

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	<u>\$40,843,154</u>

SECTION 3.170.— To Northwest Missouri State University

All Expenditures

From General Revenue Fund	\$27,266,631
From Lottery Proceeds Fund	2,599,805

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	<u>\$29,941,436</u>

SECTION 3.175.— To Missouri Southern State University - Joplin

All Expenditures

From General Revenue Fund	\$19,389,314
From Lottery Proceeds Fund	1,722,820

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	<u>\$21,187,134</u>

SECTION 3.180.— To Missouri Western State College

All Expenditures

From General Revenue Fund	\$18,998,078
From Lottery Proceeds Fund	1,768,039

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	<u>\$20,841,117</u>

SECTION 3.185.— To Harris-Stowe State College

All Expenditures

From General Revenue Fund	\$8,901,978
From Lottery Proceeds Fund	908,704

For the payment of refunds set off against debt as required by Section

143.786, RSMo

From Debt Offset Escrow Fund	75,000E
Total	<u>\$9,885,682</u>

SECTION 3.190.— To the University of Missouri

For operation of its various campuses and programs

All Expenditures	
From General Revenue Fund	\$363,949,765
From Lottery Proceeds Fund	36,869,596

For the payment of refunds set off against debt as required by Section
143.786, RSMo

From Debt Offset Escrow Fund	200,000E
Total	\$401,019,361

SECTION 3.195.— To the University of Missouri
For the Missouri Bibliographic and Information User System (MOBIUS)

All Expenditures	
From General Revenue Fund	\$649,539

SECTION 3.200.— To the University of Missouri
For the Missouri Research and Education Network (MOREnet)

All Expenditures	
From General Revenue Fund	\$14,504,401

SECTION 3.205.— To the University of Missouri
For the University of Missouri Hospital and Clinics

All Expenditures	
From General Revenue Fund	\$13,135,457

SECTION 3.210.— To the University of Missouri
For the Missouri Rehabilitation Center

All Expenditures	
From General Revenue Fund	\$10,116,691

SECTION 3.215.— To the University of Missouri
For Alzheimer's disease research

All Expenditures	
From General Revenue Fund	\$227,375

SECTION 3.220.— To the University of Missouri
For a program of research into spinal cord injuries

All Expenditures	
From Spinal Cord Injury Fund	\$375,000

SECTION 3.225.— To the University of Missouri
For the Missouri Institute of Mental Health

All Expenditures	
From General Revenue Fund	\$2,299,850

SECTION 3.230.— To the University of Missouri
For the treatment of renal disease in a statewide program

All Expenditures	
From General Revenue Fund	\$4,016,774

SECTION 3.235.— To the University of Missouri
For the State Historical Society

All Expenditures	
From General Revenue Fund	\$922,601

SECTION 3.240.— To the Board of Curators of the University of Missouri

For investment in registered federal, state, county, municipal, or school district
bonds as provided by law
From State Seminary Fund \$1,500,000

SECTION 3.245.— To the Board of Curators of the University of Missouri
For use by the University of Missouri
From State Seminary Moneys Fund, Income from Investments \$250,000

BILL TOTALS

General Revenue Fund \$862,342,574
Federal Funds 6,247,637
Other Funds 180,529,321
Total \$1,049,119,532

Approved June 16, 2004

HB 1004 [CCS SCS HS HCS HB 1004]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF REVENUE AND DEPARTMENT OF TRANSPORTATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue and the Department of Transportation, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 4.005.— To the Department of Revenue
Personal Service and/or Expense and Equipment
From General Revenue Fund \$35,829,381
From Federal Funds 9,001,789
From State Highways and Transportation Department Fund 41,331,662
From Department of Revenue Information Fund 816,217
From Petroleum Storage Tank Insurance Fund 25,169
From Petroleum Inspection Fund 32,452
From Health Initiatives Fund 49,096
From Motor Vehicle Commission Fund 983,589
From Division of Child Support Enforcement Collections Fund 2,621,930
From Conservation Commission Fund 537,975
From Division of Aging Elderly Home Delivered Meals Trust Fund 22,204

Annual salary adjustment in accordance with Section 105.005, RSMo	
From General Revenue Fund	480
From State Highways and Transportation Department Fund	720
Total (Not to exceed 1,868.45 F.T.E.)	\$91,252,664

SECTION 4.010. — To the Department of Revenue
For the Division of Administration
For postage

Expense and Equipment	
From General Revenue Fund	\$2,585,597
From Health Initiatives Fund	4,733
From Motor Vehicle Commission Fund	38,750
From Conservation Commission Fund	1,183
From Department of Revenue Information Fund	172,699
From State Highways and Transportation Department Fund	4,071,580
Total (0 F.T.E.)	\$6,874,542

SECTION 4.015. — To the Department of Revenue
For the State Tax Commission

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$2,858,488

Annual salary adjustment in accordance with Section 105.005, RSMo	
From General Revenue Fund	3,600
Total (Not to exceed 62.75 F.T.E.)	\$2,862,088

SECTION 4.020. — To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment that is credited to the General Revenue Fund

From General Revenue Fund (0 F.T.E.)	\$1,286,600,000E
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SECTION 4.025. — To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment credited to Federal and Other Funds

From Federal and Other Funds (0 F.T.E.)	\$55,000E
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SECTION 4.030. — To the Department of Revenue
For the state's share of the costs and expenses incurred pursuant to an approved assessment and equalization maintenance plan as provided by Chapter 137, RSMo

From General Revenue Fund (0 F.T.E.)	\$18,785,668
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SECTION 4.035. — To the Department of Revenue
For state costs for county assessor and assessor-elect certification

From General Revenue Fund (0 F.T.E.)	\$77,112
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SECTION 4.040. — To the Department of Revenue
For the purpose of refunding any tax or fee credited to the State Highways and Transportation Department Fund

From State Highways and Transportation Department Fund (0 F.T.E.)	\$1,264,204E
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SECTION 4.045. — To the Department of Revenue
For payment of fees for entry of records into the federal Commercial Drivers' Licensing Information System

Expense and Equipment
From State Highways and Transportation Department Fund (0 F.T.E.) \$275,000

SECTION 4.050.— To the Department of Revenue
For the Problem Driver Pointer System
Expense and Equipment
From State Highways and Transportation Department Fund (0 F.T.E.) \$60,000E

SECTION 4.055.— To the Department of Revenue
For payment of court costs and attorney fees pursuant to Section 302.536, RSMo
From State Highways and Transportation Department Fund (0 F.T.E.) \$15,000

SECTION 4.060.— To the Department of Revenue
For distribution to cities and counties of all funds accruing to the Motor Fuel
Tax Fund under the provisions of Sections 30(a) and 30(b), Article IV,
Constitution of Missouri
From Motor Fuel Tax Fund (0 F.T.E.) \$188,000,000E

SECTION 4.065.— To the Department of Revenue
For refunding any overpayment or erroneous payment of any amount credited
to the Aviation Trust Fund
From Aviation Trust Fund (0 F.T.E.) \$157,927E

SECTION 4.070.— To the Department of Revenue
For refunds and distributions of motor fuel taxes
From State Highways and Transportation Department Fund (0 F.T.E.) \$10,414,000E

SECTION 4.075.— To the Department of Revenue
For payment of fees to counties as a result of delinquent collections made
by circuit attorneys or prosecuting attorneys and payment of collection
agency fees
From General Revenue Fund (0 F.T.E.) \$2,728,000E

SECTION 4.080.— To the Department of Revenue
For payment of fees to counties for the filing of lien notices and lien releases
From General Revenue Fund (0 F.T.E.) \$200,000

SECTION 4.085.— To the Department of Revenue
For payment of contingency fees associated with revenue collection enhancement
measures
From General Revenue Fund \$8,322,012
From Conservation Commission Fund 171,718
From State Highways and Transportation Department Fund 1,006,270

For payment of contract auditors and tax data matching
From General Revenue Fund 8,000,000
Total \$17,500,000

SECTION 4.090.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment
credited to the Workers' Compensation Fund
From Workers' Compensation Fund (0 F.T.E.) \$1,669,902E

SECTION 4.095.— To the Department of Revenue
For refunds for overpayment or erroneous payment of any tax or any payment

credited to the Second Injury Fund
From Second Injury Fund (0 F.T.E.) \$248,966E

SECTION 4.100.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any payment
for tobacco taxes

From Health Initiatives Fund \$25,000E
From State School Moneys Fund 50,000E
From Fair Share Fund 11,000E
Total (0 F.T.E.) \$86,000

SECTION 4.105.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any payment credited
to the Motor Vehicle Commission Fund

From Motor Vehicle Commission Fund (0 F.T.E.) \$12,000E

SECTION 4.110.— To the Department of Revenue

For payment of dues and fees to the Multistate Tax Commission

From General Revenue Fund (0 F.T.E.) \$163,001

SECTION 4.115.— There is transferred out of the state treasury, chargeable to
the General Revenue Fund, such amounts as may be necessary to make
payments of refunds set off against debts as required by Section 143.786,
RSMo, to the Debt Offset Escrow Fund

From General Revenue Fund (0 F.T.E.) \$10,512,884E

SECTION 4.120.— For the payment of refunds set off against debts as required
by Section 143.786, RSMo

From Debt Offset Escrow Fund (0 F.T.E.) \$250,000E

SECTION 4.125.— Funds are to be transferred out of the state treasury, chargeable
to the School District Trust Fund, to the General Revenue Fund

From School District Trust Fund (0 F.T.E.) \$2,500,000

SECTION 4.130.— There is transferred out of the state treasury, chargeable to
the Parks Sales Tax Fund, sixty-six hundredths percent of the funds received,
to the General Revenue Fund

From Parks Sales Tax Fund (0 F.T.E.) \$200,000E

SECTION 4.135.— There is transferred out of the state treasury, chargeable to
the Soil and Water Sales Tax Fund, sixty-six hundredths percent of the
funds received, to the General Revenue Fund

From Soil and Water Sales Tax Fund (0 F.T.E.) \$200,000E

SECTION 4.140.— Funds are to be transferred out of the state treasury, chargeable
to the Solid Waste Management Fund, to the General Revenue Fund

From Solid Waste Management Fund (0 F.T.E.) \$108,000

SECTION 4.145.— There is transferred out of the state treasury, chargeable to the
General Revenue Fund, amounts from income tax refunds designated by
taxpayers for deposit in the Division of Aging and Elderly Home Delivered
Meals Trust Fund, Veterans' Trust Fund, Children's Trust Fund, Workers
Memorial Fund, and Missouri National Guard Trust Fund

From General Revenue Fund (0 F.T.E.) \$334,224E

SECTION 4.150.— There is transferred out of the state treasury, chargeable to the funds listed below, amounts from income tax refunds erroneously deposited to said funds, to the General Revenue Fund

From Division of Aging and Elderly Home Delivered Meals Trust Fund	\$2,831E
From Veterans' Trust Fund	1,985E
From Children's Trust Fund	5,202E
From Workers Memorial Fund	250E
From Missouri National Guard Trust Fund	651E
Total (0 F.T.E.)	<u>\$10,919</u>

SECTION 4.155.— Funds are to be transferred out of the state treasury, chargeable to the Department of Revenue Information Fund, to the State Highways and Transportation Department Fund

From Department of Revenue Information Fund (0 F.T.E.)	\$1,454,843E
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SECTION 4.160.— Funds are to be transferred out of the state treasury, chargeable to the State Highways and Transportation Department Fund, to the State Road Fund

From State Highways and Transportation Department Fund (0 F.T.E.)	\$201,215,655E
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SECTION 4.165.— Funds are to be transferred out of the state treasury, chargeable to the Motor Fuel Tax Fund, to the State Highways and Transportation Department Fund

From Motor Fuel Tax Fund (0 F.T.E.)	\$470,546,903E
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SECTION 4.170.— To the Department of Revenue

For the State Lottery Commission

For any and all expenditures, including operating, maintenance and repair, and minor renovations, necessary for the purpose of operating a state lottery

Personal Service	\$6,792,627
Expense and Equipment	<u>32,409,678E</u>
From Lottery Enterprise Fund (Not to exceed 176.50 F.T.E.)	\$39,202,305

SECTION 4.175.— To the Department of Revenue

For the State Lottery Commission

For the payment of prizes

From Lottery Enterprise Fund (0 F.T.E.)	\$80,000,000E
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SECTION 4.180.— Funds are to be transferred out of the state treasury, chargeable to the Lottery Enterprise Fund, to the Lottery Proceeds Fund

From Lottery Enterprise Fund (0 F.T.E.)	\$208,600,000E
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SECTION 4.200.— To the Department of Transportation

For the Highways and Transportation Commission and Highway Program

Administration

Personal Service	\$20,052,068
Expense and Equipment	<u>7,244,103</u>
From State Highways and Transportation Department Fund	27,296,171

For Administration fringe benefits

Personal Service	8,027,380E
Expense and Equipment	<u>11,105,697E</u>
From State Highways and Transportation Department Fund	<u>19,133,077</u>
Total (Not to exceed 428.00 F.T.E.)	\$46,429,248

SECTION 4.205. — To the Department of Transportation
For the Construction Program

To pay the costs of reimbursing counties and other political subdivisions for the acquisition of roads and bridges taken over by the state as permanent parts of the state highway system, and for the costs of locating, relocating, establishing, acquiring, constructing, reconstructing, widening, and improving those highways, bridges, tunnels, parkways, travel ways, tourways, and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies relating to the location and construction of highways and bridges; and to receive funds from the United States government for like purposes

Personal Service

From State Highways and Transportation Department Fund \$83,140,776E

Expense and Equipment 32,327,531E

Construction 830,823,536E

From State Road Fund 863,151,067

For all expenditures associated with refunding currently outstanding state road bond debt

From State Road Fund 74,527,494E

For Construction Program fringe benefits

Personal Service 34,917,411E

Expense and Equipment 3,233,237E

From State Highways and Transportation Department Fund 38,150,648

Total (Not to exceed 1,937.00 F.T.E.) \$1,058,969,985

SECTION 4.210. — To the Department of Transportation

For the Transportation Enhancements Program provided by the Federal

Highway Administration

From State Road Fund (0 F.T.E.) \$12,000,000E

SECTION 4.215. — To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the preservation, maintenance, and safety of highways and bridges

Personal Service \$434,428

Expense and Equipment 71,827

From Federal Funds 506,255

Personal Service

From State Highways and Transportation Department Fund 129,313,748E

Expense and Equipment

From State Road Fund 137,731,840E

Expense and Equipment

From Motorcycle Safety Trust Fund 300,000E

For Maintenance Program fringe benefits	
Personal Service	16,794E
Expense and Equipment	15,903E
From Federal Funds	32,697
Personal Service	58,289,710E
Expense and Equipment	6,322,568E
From State Highways and Transportation Department Fund	64,612,278
For all allotments, grants, and contributions from federal sources that may be deposited in the state treasury for grants of National Highway Safety Act moneys	
From Federal Funds	18,054,000E
For the Motor Carrier Safety Assistance Program	
From Federal Funds	1,350,000E
Total (Not to exceed 3,687.25 F.T.E.)	\$351,900,818

SECTION 4.216.— To the Department of Transportation

For the Motor Carriers Service Program	
Personal Service	\$4,136,635E
Expense and Equipment	2,728,513E
From State Highways and Transportation Department Fund	6,865,148

Expense and Equipment	
From State Road Fund	63,344E

For Motor Carriers Service fringe benefits	
Personal Service	1,878,607E
Expense and Equipment	201,875E
From State Highways and Transportation Department Fund	2,080,482
Total (Not to exceed 125.00 F.T.E.)	\$9,008,974

SECTION 4.220.— To the Department of Transportation

For the Motorist Assistance Program	
Personal Service	
From State Highways and Transportation Department Fund	\$1,920,062

Expense and Equipment	
From State Road Fund.	317,129

For Motorist Assistance fringe benefits	
Personal Service	847,008E
Expense and Equipment	86,554E
From State Highways and Transportation Department Fund	933,562
Total (Not to exceed 52.00 F.T.E.)	\$3,170,753

SECTION 4.225.— To the Department of Transportation

For Service Operations

To pay the costs of constructing, preserving, and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the construction, preservation, and maintenance of highways and bridges

Personal Service	\$16,173,499
Expense and Equipment	62,817
From State Highways and Transportation Department Fund	<u>16,236,316</u>

Expense and Equipment	
From State Road Fund	83,159,389E

For Service Operations fringe benefits	
Personal Service	6,705,104E
Expense and Equipment	610,864E
From State Highways and Transportation Department Fund	<u>7,315,968</u>
Total (Not to exceed 423.00 F.T.E.)	\$106,711,673

SECTION 4.230.— To the Department of Transportation

For the purpose of refunding any tax or fee credited to the State Highways
and Transportation Department Fund

From State Highways and Transportation Department Fund	\$1,000,000E
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For refunds and distributions of motor fuel taxes

From State Highways and Transportation Department Fund	<u>25,000,000E</u>
Total (0 F.T.E.)	\$26,000,000

SECTION 4.235.— To the Department of Transportation

For Multimodal Operations Administration

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$309,495

Personal Service	406,928
Expense and Equipment	400,000
From Federal Funds	<u>806,928</u>

Expense and Equipment	
From State Road Fund	15,000

Personal Service	
From State Highways and Transportation Department Fund	145,563

Personal Service	435,793
Expense and Equipment	150,000
From Railroad Expense Fund	<u>585,793</u>

Personal Service	
From State Transportation Fund	41,724

Personal Service	338,542
Expense and Equipment	16,150
From Aviation Trust Fund	<u>354,692</u>

For Multimodal Operations fringe benefits

Personal Service	
From General Revenue Fund	105,149E
From Federal Funds	145,592E
From State Highways and Transportation Department Fund	112,599E
From Railroad Expense Fund	120,608E

From State Transportation Fund	17,484E
From Aviation Trust Fund	132,760E
Total (Not to exceed 36.00 F.T.E.)	<u>\$2,893,387</u>

SECTION 4.240.— To the Department of Transportation

For Multimodal Operations

For reimbursements to the State Highways and Transportation Department Fund
for providing professional and technical services and administrative support
of multimodal programs

From General Revenue Fund	\$38,130
From Federal Funds	71,500
From Railroad Expense Fund	175,000
From State Transportation Fund	32,420
From Aviation Trust Fund	<u>25,000</u>
Total (0 F.T.E.)	<u>\$342,050</u>

SECTION 4.245.— To the Department of Transportation

For Multimodal Operations

For loans from the State Transportation Assistance Revolving Fund to political
subdivisions of the state or to public or private not-for-profit organizations
or entities in accordance with Section 226.191, RSMo

From State Transportation Assistance Revolving Fund (0 F.T.E.)	\$550,000E
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SECTION 4.250.— Funds are to be transferred out of the state treasury, chargeable
to the General Revenue Fund, to the State Transportation Fund

From General Revenue Fund	\$3,765,589
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SECTION 4.255.— To the Department of Transportation

For the Transit Program

For distributing funds to urban, small urban, and rural transportation systems

From State Transportation Fund (0 F.T.E.)	\$3,765,589
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SECTION 4.260.— To the Department of Transportation

For the Transit Program

For locally matched capital improvement grants under Section 5310, Title 49,
United States Code to assist private, non-profit organizations in improving
public transportation for the state's elderly and people with disabilities

From Federal Funds (0 F.T.E.)	\$2,083,385E
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SECTION 4.265.— To the Department of Transportation

For the Transit Program

For an operating subsidy for not-for-profit transporters of the elderly, people
with disabilities, and low-income individuals

From General Revenue Fund (0 F.T.E.)	\$2,793,805
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SECTION 4.270.— To the Department of Transportation

For the Transit Program

For grants to urban areas under Section 5307, Title 49, United States Code

From Federal Funds (0 F.T.E.)	\$1E
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SECTION 4.275.— To the Department of Transportation

For the Transit Program

For locally matched grants to small urban and rural areas under Section 5311,
Title 49, United States Code

From Federal and Local Funds (0 F.T.E.)	\$6,061,394E
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SECTION 4.280.— To the Department of Transportation

For the Transit Program

For grants under Section 5309, Title 49, United States Code to assist private,
non-profit organizations providing public transportation services

From Federal Funds (0 F.T.E.) \$12,000,000E

SECTION 4.285.— To the Department of Transportation

For the Transit Program

For grants to metropolitan areas under Section 5303, Title 49, United States Code

From Federal Funds (0 F.T.E.) \$1,165,123E

SECTION 4.290.— To the Department of Transportation

For the Rail Program

For grants under Section 5 of the Department of Transportation Act, as amended
by the reauthorizing act, for acquisition, rehabilitation, improvement, or rail
facility construction assistance

From Federal Funds \$1E

For grants to study the feasibility of high speed rail service

From Federal Funds 1E

Total (0 F.T.E.) \$2

SECTION 4.295.— To the Department of Transportation

For the Light Rail Safety Program

From Light Rail Safety Fund (0 F.T.E.) \$1E

SECTION 4.300.— To the Department of Transportation

For the Rail Program

For passenger rail service in Missouri, provided that prior to March 1, 2005, the
Department of Transportation shall complete a formal process to evaluate
privatizing state supported passenger rail service for state fiscal year 2006

From General Revenue Fund \$4,700,000

From State Transportation Fund 1,500,000

Total (0 F.T.E.) \$6,200,000

SECTION 4.305.— To the Department of Transportation

For station repairs and improvements at Missouri Amtrak stations

From State Transportation Fund (0 F.T.E.) \$25,000

SECTION 4.310.— To the Department of TransportationFor protection of the public against hazards existing at railroad crossings
pursuant to Chapter 389, RSMo

From Highway Department Grade Crossing Safety Account (0 F.T.E.) \$1,500,000E

SECTION 4.315.— Funds are to be transferred out of the state treasury, chargeable
to the Grade Crossing Safety Account, to the Railroad Expense Fund

From Grade Crossing Safety Account \$100,000

SECTION 4.320.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, and maintenance of publicly owned
airfields by cities or other political subdivisions, including land acquisition,
and for printing charts and directories

From Aviation Trust Fund (0 F.T.E.) \$4,600,000E

SECTION 4.325.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, or planning of publicly owned airfields
by cities or other political subdivisions, including land acquisition, pursuant
to the provisions of the State Block Grant Pilot Program authorized by
Section 116 of the Federal Airport and Airway Safety and Capacity
Expansion Act of 1987

From Federal Funds (0 F.T.E.) \$11,000,000E

SECTION 4.330.— To the Department of Transportation

For the Waterways program

For grants to port authorities for assistance in port planning, acquisition or
construction within the port districts

From General Revenue Fund (0 F.T.E.) \$450,000

For ferry boat operation grants

From State Transportation Fund 150,000

Total (0 F.T.E.) \$600,000

DEPARTMENT OF REVENUE TOTAL

General Revenue Fund \$90,400,447

Federal Funds 9,001,789

Other Funds 359,440,252

Total \$458,842,488

DEPARTMENT OF TRANSPORTATION TOTAL

General Revenue Fund \$12,162,168

Federal Funds 53,276,877

Other Funds 1,578,332,143

Total \$1,643,771,188

Approved June 16, 2004

HB 1005 [CCS SCS HS HCS HB 1005]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION,
DEPARTMENT OF PUBLIC SAFETY, AND CHIEF EXECUTIVE'S OFFICE.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, the Department of Public Safety, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 5.005. — To the Office of Administration

For the Commissioner's Office

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation . .	\$2,537,646
Annual salary adjustment in accordance with Section 105.005, RSMo . .	1,200
From General Revenue Fund	<u>2,538,846</u>

Personal Service

From Office of Administration Revolving Administrative Trust Fund	299,673
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Personal Service

From Federal Surplus Property Fund	40,428
Total (Not to exceed 52.57 F.T.E.)	<u>\$2,878,947</u>

SECTION 5.010. — To the Office of Administration

For the Division of Accounting

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 48.00 F.T.E.)	\$2,085,376

SECTION 5.015. — To the Office of Administration

For the Division of Budget and Planning

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 28.00 F.T.E.)	\$1,529,420

SECTION 5.020. — To the Office of Administration

For the Division of Budget and Planning

For research and development activities

From General Revenue Fund	\$15,495
From Federal Funds	50,000
Total (0 F.T.E.)	<u>\$65,495</u>

SECTION 5.025. — To the Office of Administration

For the Division of Budget and Planning

For the purpose of payment of contracts for maximization of reimbursements to the state

From General Revenue Fund	\$1E
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SECTION 5.030. — To the Office of Administration

For the Division of Information Services

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$6,569,106
From Office of Administration Revolving Administrative Trust Fund	33,565,630
Total (Not to exceed 178.65 F.T.E.)	<u>\$40,134,736</u>

SECTION 5.035. — To the Office of Administration

For the Division of Information Services

For the centralized telephone billing system
 Expense and Equipment
 From Office of Administration Revolving Administrative Trust Fund \$36,000,000E

SECTION 5.040.— There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund for funds generated by telephone contracts with the Department of Corrections, to the General Revenue Fund
 From Office of Administration Revolving Administrative Trust Fund \$2,002,479E

SECTION 5.045.— To the Office of Administration
 For the Division of Design and Construction
 Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,637,658

Personal Service	2,349,425
Expense and Equipment	412,239
From Office of Administration Revolving Administrative Trust Fund	<u>2,761,664</u>
Total (Not to exceed 85.00 F.T.E.)	\$4,399,322

SECTION 5.050.— To the Office of Administration
 For the Division of Design and Construction
 For the purpose of funding facility assessment
 Personal Service \$182,824
 Expense and Equipment 113,000
 From Office of Administration Revolving Administrative Trust Fund (Not to exceed 4.00 F.T.E.) \$295,824

SECTION 5.055.— To the Office of Administration
 For the Division of Personnel
 Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$2,770,417

Personal Service	62,352
Expense and Equipment	320,000
From Office of Administration Revolving Administrative Trust Fund	<u>382,352</u>
Total (Not to exceed 66.97 F.T.E.)	\$3,152,769

SECTION 5.060.— To the Office of Administration
 For the Division of Personnel
 For employee suggestion awards
 From Office of Administration Revolving Administrative Trust Fund \$1E

SECTION 5.065.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 36.00 F.T.E.) \$1,655,146

SECTION 5.070.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For refunding bid and performance bonds
 From Office of Administration Revolving Administrative Trust Fund \$2,112,000E

SECTION 5.075.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For operation of the State Agency for Surplus Property

Personal Service	\$711,374
Expense and Equipment	752,884
Fixed Price Vehicle Program	<u>800,000E</u>
From Federal Surplus Property Fund (Not to exceed 22.50 F.T.E.)	\$2,264,258

SECTION 5.080.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For Surplus Property recycling activities
 From Federal Surplus Property Fund \$13,000E

SECTION 5.085.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For the disbursement of surplus property sales receipts
 From Proceeds of Surplus Property Sales Fund \$48,800E

SECTION 5.090.— There is transferred out of the State Treasury, chargeable to
 the Proceeds of Surplus Property Sales Fund, to various state agency funds
 From Proceeds of Surplus Property Sales Fund \$1,041,200E

SECTION 5.095.— To the Office of Administration
 For the Division of Facilities Management
 Leasing Operations
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From Office of Administration Revolving Administrative Trust
 Fund (Not to exceed 24.89 F.T.E.) \$1,189,217

SECTION 5.100.— There is transferred out of the State Treasury, chargeable
 to the General Revenue Fund for leasing operations, to the Office of
 Administration Revolving Administrative Trust Fund
 From General Revenue Fund \$1,534,318

SECTION 5.105.— There is transferred out of the State Treasury, chargeable to
 the various funds, amounts paid from the General Revenue Fund for
 services related to leasing operations, to the General Revenue Fund

From Federal Funds	\$447,280E
From Other Funds	<u>154,743E</u>
Total	\$602,023

SECTION 5.110.— To the Office of Administration
 For the Division of Facilities Management
 Building Operations
 For authority to spend donated funds to support renovations and operations of
 the Governor's Mansion
 From State Facility Maintenance and Operation Fund \$30,000

SECTION 5.115.— To the Board of Public Buildings
 For the Office of Administration
 For the Division of Facilities Management
 Building Operations
 For any and all expenditures necessary for the purpose of funding the operations
 of the Fletcher Daniels State Office Building; Springfield State Office

Complex; Wainwright State Office Building; Midtown State Office Building; Harry S Truman State Office Building; St. Joseph State Office Building; the Kirkpatrick Information Center; Mill Creek State Office Building; Prince Hall Family Support Center; and the office buildings, laboratories, and support facilities at the seat of government
 Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From State Facility Maintenance and Operation Fund (Not to exceed 206.39 F.T.E.) \$16,576,048

SECTION 5.120.— To the Office of Administration

For the Division of Facilities Management

Building Operations

For operational maintenance and repairs for state-owned facilities
 From Facilities Maintenance Reserve Fund \$246,672
 From State Facility Maintenance and Operation Fund 486,271
 Total \$732,943

SECTION 5.125.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, for payment of rent by the state to the Board of Public Buildings for state agencies occupying the Fletcher Daniels State Office Building; Springfield State Office Complex; Wainwright State Office Building; Midtown State Office Building; Harry S Truman State Office Building; St. Joseph State Office Building; the Kirkpatrick Information Center; Mill Creek State Office Building; Prince Hall Family Support Center; and the office buildings, laboratories, and support facilities at the seat of government for any and all expenditures for the purpose of funding the operation of the buildings and facilities, the following amount to the State Facility Maintenance and Operation Fund

From General Revenue Fund \$20,587,202

SECTION 5.130.— To the Office of Administration

For the Division of Facilities Management

Building Operations

For the purpose of funding expenditures associated with the Second State

Capitol Commission

Expense and Equipment

From Second State Capitol Commission Fund \$100,000E

SECTION 5.135.— There is transferred out of the State Treasury, chargeable to the funds shown below, for payment of rent by the state to the Board of Public Buildings for state agencies occupying the Fletcher Daniels State Office Building; Springfield State Office Complex; Wainwright State Office Building; Midtown State Office Building; Harry S Truman State Office Building; St. Joseph State Office Building; the Kirkpatrick Information Center; Mill Creek State Office Building; Prince Hall Family Support Center; and the office buildings, laboratories, and support facilities at the seat of government for any and all expenditures for the purpose of funding the operation of the buildings and facilities, the following amount to the General Revenue Fund

From Federal Funds \$1,147,060E
 From Other Funds 2,239,854E
 Total \$3,386,914

SECTION 5.140.— To the Board of Public Buildings

For the Office of Administration
 For the Division of Facilities Management
 Building Operations
 For modifications and other support services at state-owned facilities
 From State Facility Maintenance and Operation Fund \$708,871E

SECTION 5.145.— To the Office of Administration

For the Division of General Services
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,164,979

 Personal Service 1,944,548
 Expense and Equipment 1,277,399
 From Office of Administration Revolving Administrative Trust Fund 3,221,947
 Total (Not to exceed 91.50 F.T.E.) \$4,386,926

SECTION 5.150.— There is transferred out of the State Treasury, chargeable
 to the General Revenue Fund, to the State Property Preservation Fund

From General Revenue Fund \$1E

SECTION 5.155.— To the Office of Administration

For the Division of General Services
 For the repair or replacement of state-owned or leased facilities that have suffered
 damage from natural or man-made events or for the defeasance of outstanding
 debt secured by the damaged facilities when a notice of coverage has been
 issued by the Commissioner of Administration, as provided by Sections
 37.410 through 37.413, RSMo
 From State Property Preservation Fund \$1E

SECTION 5.160.— To the Office of Administration

For the Division of General Services
 For reimbursable expenses and for the replacement or repair of damaged equipment
 when recovery is obtained from a third party
 Expense and Equipment
 From Office of Administration Revolving Administrative Trust Fund \$5,000,000E

SECTION 5.165.— To the Office of Administration

For the Division of General Services
 For the Governor's Council on Physical Fitness and Health
 For the expenditure of contributions, gifts, and grants to promote physical
 fitness and healthy lifestyles
 From Governor's Council on Physical Fitness Institution Gift Trust Fund \$350,000

SECTION 5.170.— To the Office of Administration

For the Division of General Services
 For the Head Injury Program
 Personal Service \$81,130
 Expense and Equipment 421,270
 From Head Injury Fund (Not to exceed 2.00 F.T.E.) \$502,400

SECTION 5.175.— To the Office of Administration

For the Administrative Hearing Commission
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation \$846,015

Annual salary adjustment in accordance with Section 105.005, RSMo	3,600
From General Revenue Fund (Not to exceed 15.00 F.T.E.)	<u>\$849,615</u>

SECTION 5.180.— To the Office of Administration

For the purpose of funding the Office of Child Welfare

Personal Service and/or Expense and Equipment provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue	\$204,556
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Personal Service	64,453
Expense and Equipment	<u>71,265</u>
From Federal Funds	<u>135,718</u>
Total (Not to exceed 4.00 F.T.E.)	<u>\$340,274</u>

SECTION 5.185.— To the Office of Administration

For the administrative, promotional, and programmatic costs of the Children's

Trust Fund Board as provided by Section 210.173, RSMo

Personal Service	\$191,421
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Expense and Equipment	146,239
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For Program Disbursements	<u>3,360,000E</u>
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From Children's Trust Fund (Not to exceed 5.00 F.T.E.)	<u>\$3,697,660</u>
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SECTION 5.190.— To the Office of Administration

For the Children's Services Commission

Expense and Equipment

From Children's Services Commission Fund	\$10,000
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SECTION 5.195.— To the Office of Administration

For the Missouri Assistive Technology Council

Expense and Equipment

From General Revenue Fund	\$52,760
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Personal Service	205,073
Expense and Equipment	<u>591,893</u>
From Federal Funds	<u>796,966</u>

Personal Service	195,131
Expense and Equipment	<u>1,967,914</u>
From Deaf Relay Service and Equipment Distribution Program Fund	<u>2,163,045</u>

For general program administration, including all expenditures for the

Assistive Technology Loan Program

Personal Service	45,200
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Expense and Equipment	<u>500,000</u>
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From Assistive Technology Loan Revolving Fund	<u>545,200</u>
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Total (Not to exceed 10.00 F.T.E.)	<u>\$3,557,971</u>
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SECTION 5.200.— To the Office of Administration

For the Governor's Council on Disability

Personal Service and/or Expense and Equipment, provided that not more than ten (10%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 5.00 F.T.E.)	\$229,119
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SECTION 5.205.— To the Office of Administration

For those services provided through the Office of Administration that are

contracted with and reimbursed by the Board of Trustees of the Missouri Public Entity Risk Management Fund as provided by Chapter 537, RSMo	
Personal Service	\$584,742
Expense and Equipment	<u>64,847</u>
From Office of Administration Revolving Administrative Trust Fund (Not to exceed 16.00 F.T.E.)	\$649,589

SECTION 5.210.— To the Office of Administration

For the Missouri Ethics Commission

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 21.00 F.T.E.)	\$1,207,907

SECTION 5.215.— To the Office of Administration

For the Office of Information Technology and an annual status report of
information technology projects. The report is to be submitted to the
Senate Appropriations Committee Chair and the House Budget Chair
by December 31 of each year

Personal Service	\$375,885
Expense and Equipment	<u>100,939</u>
From Office of Administration Revolving Administrative Trust Fund	476,824

For the Justice Integration Project

Expense and Equipment	
From Federal Funds	1,286,205

For the State Security Office

Personal Service	181,176
Expense and Equipment	<u>13,500</u>
From Federal Funds	194,676

For Federal Programs Spending Authority

Personal Service	159,072
Expense and Equipment	<u>3,416,081</u>
From Federal Funds	<u>3,575,153</u>

Personal Service	1E
Expense and Equipment	<u>1E</u>
From Other Funds	<u>2</u>
Total (Not to exceed 12.00 F.T.E.)	\$5,532,860

SECTION 5.220.— To the Office of Administration

For the Division of Accounting

For payment of rent by the state for state agencies occupying Board of Public
Buildings revenue bond financed buildings. Funds are to be used for
principal, interest, bond issuance costs, and reserve fund requirements
of Board of Public Buildings bonds

From General Revenue Fund	\$24,788,769
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SECTION 5.225.— To the Office of Administration

For the Division of Accounting

For payment of principal and interest and all other amounts due on the bonds
issued by the Board of Public Buildings pursuant to Sections 8.370 through
8.460, RSMo, and Sections 8.625 through 8.645, RSMo

From General Revenue Fund	\$1E
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***SECTION 5.226.**— To the Office of Administration

For the Division of Accounting

For payment of principal and interest and all other amounts due on the bonds issued after January 1, 2004, by the Board of Public Buildings for institution of higher education pursuant to Sections 8.370 through 8.460, RSMo, and Sections 8.625 through 8.645, RSMo. The enactment of this section is contingent upon passage and approval of SB 1221 and SB 1227, as passed by the Ninety-second General Assembly, Second Regular Session

From General Revenue Fund \$1E

*I hereby veto \$1E general revenue for the payment of principal and interest on bonds for institutions of higher education. The section was contingent upon passage and approval of SB 1221 and SB 1227. Those bills were not passed by the General Assembly.

Said section is vetoed in its entirety by \$1 to \$0 from General Revenue Fund.
From \$1 to \$0 in total for the section.

BOB HOLDEN, Governor

***SECTION 5.227.**— There is transferred out of the State Treasury, chargeable to the Life Sciences Research Trust Fund, to the General Revenue Fund for reimbursement of the principal and interest payments of the life science projects authorized pursuant to Sections 8.370 through 8.460, RSMo and Sections 8.625 through 8.645, RSMo. The enactment of this section is contingent upon passage and approval of SB 1221 and SB 1227, as passed by the Ninety-second General Assembly, Second Regular Session

From Life Science Research Trust Fund \$1E

*I hereby veto \$1E life science research trust funds to be transferred to the general revenue fund for reimbursement of principal and interest payments of life science projects. The section was contingent upon passage and approval of SB 1221 and SB 1227. Those bills were not passed by the General Assembly.

Said section is vetoed in its entirety by \$1 to \$0 from Life Science Research Trust Fund.
From \$1 to \$0 in total for the section.

BOB HOLDEN, Governor

SECTION 5.230.— There is transferred out of the State Treasury, chargeable to the Board of Public Buildings — Series A 2003 Bond Proceeds Fund, to the General Revenue Fund

From the Board of Public Buildings - Series A 2003 Bond Proceeds Fund . . \$42,600,000E

SECTION 5.235.— To the Office of Administration

For the Division of Accounting

For annual fees, arbitrage rebate, refunding, and related expenses of the Board of Public Buildings

From General Revenue Fund \$30,654E

SECTION 5.240.— To the Office of Administration

For the Division of Accounting

For payment of the state's lease/purchase debt requirements

From General Revenue Fund \$13,103,271

SECTION 5.245.— To the Office of Administration

For MOHEFA debt service and all related expenses associated with the Series
2001 MU-Columbia Arena project bonds
From General Revenue Fund \$2,868,785

SECTION 5.250.— To the Office of Administration

For debt service and all related bond expenses for the Agricultural Building
at Southwest Missouri State University provided, however, that no bonds
shall be issued or debt service paid without the prior approval of the
Commissioner of the Office of Administration, the Chair of the Senate
Appropriations Committee, and the Chair of the House Budget Committee
From General Revenue Fund \$1

SECTION 5.255.— To the Office of Administration

For the Division of Accounting
For Debt Management
Expense and Equipment
From General Revenue Fund \$200,000

SECTION 5.260.— To the Office of Administration

For the Division of Accounting
For debt service contingency for the New Jobs Training Certificates Program
From General Revenue Fund \$1E

SECTION 5.265.— To the Office of Administration

For the Division of Accounting
For the Bartle Hall Convention Center expansion, operations, development, or
maintenance in Kansas City pursuant to Sections 67.638 through 67.641,
RSMo
From General Revenue Fund \$2,000,000

SECTION 5.270.— To the Office of Administration

For the Division of Accounting
For the maintenance of the Jackson County Sports Complex pursuant to Sections
67.638 through 67.641, RSMo
From General Revenue Fund \$3,000,000

SECTION 5.275.— To the Office of Administration

For the Division of Accounting
For the expansion of the dual-purpose Edward Jones Dome project in St. Louis
From General Revenue Fund \$12,000,000

SECTION 5.280.— To the Office of Administration

For the Division of Accounting
For interest payments on federal grant monies in accordance with the Cash
Management Improvement Act of 1990 and 1992
From General Revenue Fund \$830,000E

SECTION 5.285.— To the Office of Administration

For the Division of Accounting
For audit recovery distribution
From General Revenue Fund \$450,000E

SECTION 5.290.— There is transferred out of the State Treasury, chargeable to
the General Revenue Fund for the statewide operational maintenance
and repair appropriations, to the Facilities Maintenance and Reserve Fund

From General Revenue Fund \$3,519,458

SECTION 5.295.— There is transferred out of the State Treasury, chargeable to the Budget Reserve Fund such amounts as may be necessary for cash-flow assistance to various funds

From Budget Reserve Fund to General Revenue Fund \$325,000,000E
 From Budget Reserve Fund to Other Funds 75,000,000E
 Total \$400,000,000

SECTION 5.300.— There is transferred out of the State Treasury, such amounts as may be necessary for repayment of cash-flow assistance to the Budget Reserve Fund

From General Revenue Fund \$325,000,000E
 From Other Funds 75,000,000E
 Total \$400,000,000

SECTION 5.305.— There is transferred out of the State Treasury, such amounts as may be necessary for interest payments on cash-flow assistance to the Budget Reserve Fund

From General Revenue Fund \$3,000,000E
 From Other Funds 1E
 Total \$3,000,001

SECTION 5.310.— There is transferred out of the State Treasury, such amounts as may be necessary for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund \$1E
 From Budget Reserve Fund 1E
 Total \$2

SECTION 5.315.— There is transferred out of the State Treasury, such amounts as may be necessary for corrections to fund balances

From General Revenue Fund \$1E
 From Other Funds 1E
 Total \$2

SECTION 5.320.— There is transferred out of the State Treasury, such amounts as may be necessary for the movement of cash between funds

From any fund except General Revenue Fund \$1E

SECTION 5.325.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the General Revenue Fund

From Healthy Families Trust Fund \$70,772,048

SECTION 5.330.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the Healthy Families Trust Fund-Health Care Account

From Healthy Families Trust Fund \$53,512,835

SECTION 5.335.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the Healthy Families Trust Fund-Tobacco Prevention Account

From Healthy Families Trust Fund \$482,414

SECTION 5.340.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the Healthy Families Trust Fund-Senior

Prescription Account
From Healthy Families Trust Fund \$16,856,817

SECTION 5.345.— There is transferred out of the State Treasury, chargeable to various funds such amounts as are necessary for allocation of costs to other funds in support of the state's central services performed by the Office of Administration, the Department of Revenue, the Elected Officials, and the General Assembly, to the General Revenue Fund
From Other Funds \$16,469,169E

SECTION 5.350.— There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund, to the General Revenue Fund
From Office of Administration Revolving Administrative Trust Fund \$1E

SECTION 5.355.— To the Office of Administration
For the Commissioner's Office
For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the leases of flood control lands, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri in accordance with the provisions of state law
From Federal Funds \$865,000E

SECTION 5.360.— To the Office of Administration
For the Commissioner's Office
For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the National Forest Reserve, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri
From Federal Funds \$2,415,000E

SECTION 5.365.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Water Development Fund
From General Revenue Fund \$550,000

SECTION 5.370.— To the Office of Administration
For the Commissioner's Office
For the payment of interest, operations, and maintenance in accordance with the Cannon Water Contract
From Missouri Water Development Fund \$550,000

SECTION 5.375.— To the Office of Administration
For the Commissioner's Office
For payment to counties for salaries of juvenile court personnel as provided by Sections 211.393 and 211.394, RSMo
From General Revenue Fund \$7,571,900

SECTION 5.380.— To the Office of Administration
For the Commissioner's Office
For payments to counties for county correctional prosecution reimbursements pursuant to Sections 50.850 and 50.853, RSMo
From General Revenue Fund \$20,000E

SECTION 5.385.— To the Office of Administration

For the Commissioner's Office
 For paying an amount in aid to the counties that is the net amount of costs in
 criminal cases, transportation of convicted criminals to the state penitentiaries,
 and costs for reimbursement of the expenses associated with extradition,
 less the amount of unpaid city or county liability to furnish public defender
 office space and utility services pursuant to Section 600.040, RSMo
 From General Revenue Fund \$29,860,616

SECTION 5.390.— To the Office of Administration
 For the Commissioner's Office
 For distribution of state grants to regional planning commissions and local
 governments as provided by Chapter 251, RSMo
 From General Revenue Fund \$200,000

SECTION 5.395.— To the Office of Administration
 For the Commissioner's Office
 For federal grants to support the efforts of the Missouri Commission on
 Intergovernmental Cooperation provided that the General Assembly shall
 be notified, in writing, of the source of funds and the purpose for which
 they shall be expended prior to the use of said funds
 From Federal Funds \$250,000

SECTION 5.400.— To the Office of Administration
 For the Commissioner's Office
 For distribution to public television stations as provided in Sections 37.200
 through 37.230, RSMo
 From General Revenue Fund \$95,000

SECTION 5.405.— There is transferred out of the State Treasury, chargeable to
 the General Revenue Fund such amounts as may become necessary, to the
 State Elections Subsidy Fund
 From General Revenue Fund \$4,284,000

SECTION 5.410.— To the Office of Administration
 For the Commissioner's Office
 For the state's share of special election costs as required by Chapter 115, RSMo
 From State Elections Subsidy Fund \$400,000

SECTION 5.415.— There is transferred out of the State Treasury, chargeable to
 the State Elections Subsidy Fund, to the Election Administration Improvement
 Fund pursuant to Section 115.077
 From State Elections Subsidy Fund \$3,784,000E

SECTION 5.420.— To the Office of Administration
 For funding transition costs for Elected Officials as provided in Sections 26.225,
 28.310, 30.510, and 27.100, RSMo
 From General Revenue Fund \$135,000

SECTION 5.425.— To the Office of Administration
 For transferring funds for all state employees and participating political
 subdivisions to the OASDHI Contributions Fund
 From General Revenue Fund \$72,567,454E
 From Federal Funds 27,599,700E
 From Other Sources 24,002,500E
 Total \$124,169,654

SECTION 5.430.— For the Department of Public Safety

For transferring funds for employees of the State Highway Patrol to the OASDHI Contributions Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund \$5,671,000E

SECTION 5.435.— For the Department of Transportation

For transferring funds from the state's contribution to the OASDHI Contributions Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund \$17,845,000E

SECTION 5.440.— To the Office of Administration

For the Division of Accounting

For the payment of OASDHI taxes for all state employees and for participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees

From OASDHI Contributions Fund \$147,685,654E

SECTION 5.445.— To the Office of Administration

For transferring funds for the state's contribution to the Missouri State Employees' Retirement System to the State Retirement Contributions Fund

From General Revenue Fund \$131,791,639E

From Federal Funds 41,149,116E

From Other Sources 35,026,600E

Total \$207,967,355

SECTION 5.450.— For the Department of Transportation

For transferring funds from the state's contribution to the State Retirement Contributions Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund \$176,000E

SECTION 5.455.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri State Employees' Retirement System

From State Retirement Contributions Fund \$208,143,355E

SECTION 5.460.— To the Office of Administration

For the Division of Accounting

For payment of retirement benefits to the Public School Retirement System pursuant to Section 104.342, RSMo

From General Revenue Fund \$2,400,000E

From Federal Funds 1,070,000E

From Other Funds 110,060E

Total \$3,580,060

SECTION 5.470.— To the Office of Administration

For transferring funds for all state employees who are qualified participants in the state Deferred Compensation Plan in accordance with Section 105.927,

RSMo, and pursuant to Section 401(a) of the Internal Revenue Code to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund	
From General Revenue Fund	\$6,453,442E
From Federal Funds	2,143,000E
From Other Sources	<u>1,814,000E</u>
Total	\$10,410,442

SECTION 5.475.— For the Department of Public Safety
For transferring funds for the state's contribution to the Missouri State
Employees' Deferred Compensation Incentive Plan Administration Fund
for employees of the State Highway Patrol, said transfers to be administered
by the Office of Administration
From State Highways and Transportation Department Fund \$557,000E

SECTION 5.480.— For the Department of Transportation
For transferring funds for the state's contribution to the Missouri State
Employees' Deferred Compensation Incentive Plan Administration Fund,
said transfers to be administered by the Office of Administration
From State Highways and Transportation Department Fund \$1,400,000E

SECTION 5.485.— To the Office of Administration
For the Division of Accounting
For the payment of funds credited by the state at a maximum rate of \$25 per month
per qualified participant in accordance with Section 105.927, RSMo, to deferred
compensation investment companies
From Missouri State Employees' Deferred Compensation Incentive Plan
Administration Fund \$12,367,442E

SECTION 5.490.— To the Office of Administration
For the Division of Accounting
For reimbursing the Division of Employment Security benefit account for claims
paid to former state employees for unemployment insurance coverage and
for related professional services
From General Revenue Fund \$2,263,000E
From Federal Funds 489,700E
From Other Funds 810,001E
Total \$3,562,701

SECTION 5.495.— To the Office of Administration
For the Division of Accounting
For reimbursing the Division of Employment Security benefit account for claims
paid to former state employees of the Missouri Department of Transportation
and the Department of Public Safety for unemployment insurance coverage
and for related professional services
From State Highways and Transportation Department Fund \$340,000E

SECTION 5.500.— To the Office of Administration
For transferring funds for the state's contribution to the Missouri Consolidated Health
Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund, provided
that state subsidies for active employees selecting employee and spouse, and
employee and family coverage be subsidized at no greater than 80% of the
low cost plan
From General Revenue Fund \$207,857,584E
From Federal Funds 67,232,046E

From Other Sources	46,624,773E
Total	\$321,714,403

SECTION 5.505.— To the Office of Administration

For the Department of Transportation

For transferring funds for the state's contribution to the Missouri Consolidated Health Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund

From State Highways and Transportation Department Fund \$294,000E

SECTION 5.510.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri Consolidated Health Care Plan, provided that state subsidies for active employees selecting employee and spouse, and employee and family coverage be subsidized at no greater than 80% of the low cost plan

From Missouri Consolidated Health Care Plan Benefit Fund \$322,008,403E

SECTION 5.515.— To the Office of Administration

For the Division of Accounting

For paying refunds for overpayment or erroneous payment of employee withholding taxes

From General Revenue Fund \$36,000E

SECTION 5.520.— To the Office of Administration

For the Division of Accounting

For providing voluntary life insurance

From the Missouri State Employees' Voluntary Life Insurance Fund \$862,000E

SECTION 5.525.— To the Office of Administration

For the Division of Accounting

For employee medical expense reimbursements reserve

From General Revenue Fund \$1E

SECTION 5.530.— To the Office of Administration

For the Division of Accounting

Personal Service for state payroll contingency

From General Revenue Fund \$1E

SECTION 5.535.— To the Office of Administration

For the Division of General Services

For the provision of workers' compensation benefits to state employees through either a self-insurance program administered by the Office of Administration and/or by contractual agreement with a private carrier and for administrative and legal expenses authorized, in part, by Section 105.810, RSMo

From General Revenue Fund \$16,800,000E

From Conservation Commission Fund 500,000E

Total \$17,300,000

SECTION 5.540.— There is hereby transferred out of the State Treasury, chargeable to various funds, amounts paid from the General Revenue Fund for workers' compensation benefits provided to employees paid from these other funds, to the General Revenue Fund

From Federal Funds \$1,179,156E

From Other Sources 1,520,844E

Total \$2,700,000

SECTION 5.545.— To the Office of Administration

For the Division of General Services

For workers' compensation tax payments pursuant to Section 287.690, RSMo

From General Revenue Fund	\$1,050,000E
From Conservation Commission Fund	40,000E
Total	\$1,090,000

SECTION 5.550.— There is transferred out of the State Treasury, chargeable to the funds shown below, for the payment of claims, premiums, and expenses as provided by Sections 105.711 through 105.726, RSMo, the following amounts to the State Legal Expense Fund

From General Revenue Fund	\$4,000,000E
From Office of Administration Revolving Administrative Trust Fund	25,000E
From Conservation Commission Fund	130,000E
From State Highways and Transportation Department Fund	600,000E
From Other Sources	2,435E
Total	\$4,757,435

SECTION 5.555.— To the Office of Administration

For the Division of General Services

For the payment of claims and expenses as provided by Section 105.711 et seq., RSMo, and for purchasing insurance against any or all liability of the State of Missouri or any agency, officer, or employee thereof

From State Legal Expense Fund	\$4,757,435E
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OFFICE OF ADMINISTRATION TOTALS

General Revenue Fund	\$153,139,381
Federal Funds	9,568,718
Other Funds	9,734,796
Total	\$172,442,895

FRINGE BENEFITS TOTALS

General Revenue Fund	\$445,183,121
Federal Funds	139,683,562
Other Funds	136,805,369
Total	\$721,672,052

Approved June 16, 2004

HB 1006 [CCS SCS HS HCS HB 1006]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**APPROPRIATIONS: DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF CONSERVATION, AND THE SEVERAL DIVISIONS.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions and programs thereof and for the expenses, grants, refunds,

distributions, and capital improvements projects involving the repair, replacement, and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 6.005.— To the Department of Agriculture
For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation . .	\$1,384,768
Annual salary adjustment in accordance with Section 105.005 RSMo	1,200

For refunds of erroneous receipts due to errors in application for licenses, registrations, permits, certificates, subscriptions, or other fees	3,640E
From General Revenue Fund	1,389,608

For the purpose of funding federal grants which may become available between sessions of the general assembly	
For Personal Services and/or Expense and Equipment	1,416,728
Personal Service	55,947
Expense and Equipment	35,958
From Federal Funds and Other Funds	1,508,633
Total (Not to exceed 30.50 F.T.E.)	\$2,898,241

SECTION 6.010.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to General Revenue Fund, to the Missouri Qualified Fuel Ethanol Producer Incentive Fund

From General Revenue Fund	\$5,367,800
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There is hereby transferred out of the State Treasury, chargeable to the Petroleum Violation Escrow Fund, to the Missouri Qualified Fuel Ethanol Producer Incentive Fund

From Petroleum Violation Escrow Fund	1,000,000
Total	\$6,367,800

SECTION 6.015.— To the Department of Agriculture

For Missouri Ethanol Producer Incentive Payments

From Missouri Qualified Fuel Ethanol Producer Incentive Fund (0 F.T.E.) . . .	\$6,367,800
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SECTION 6.020.— To the Department of Agriculture

For the Office of the Director

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance Reserve Fund (0 F.T.E.)	\$94,689
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SECTION 6.025.— To the Department of Agriculture

For vehicle replacement

From Federal Funds	\$120,825
From Animal Care Reserve Fund	62,290
From Grain Inspection Fees Fund	57,360
From Petroleum Inspection Fund	122,770
Total (0 F.T.E.)	<u>\$363,245</u>

SECTION 6.030.— To the Department of Agriculture

For the Agriculture Business Development Division

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$983,272
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Personal Service	39,799
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Expense and Equipment	<u>200,000</u>
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From Federal Funds and Other Funds	239,799
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Total (Not to exceed 17.00 F.T.E.)	<u>\$1,223,071</u>
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SECTION 6.035.— To the Department of Agriculture

For the Agriculture Business Development Division

For the Agriculture and Small Business Development Authority

Personal Service	\$96,873
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Expense and Equipment	<u>22,254</u>
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From Single-Purpose Animal Facility Loan Program Fund (Not to exceed 3.00 F.T.E.)	\$119,127
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SECTION 6.040.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the Single-Purpose Animal Facilities Loan
Guarantee Fund

From General Revenue Fund	\$1E
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SECTION 6.045.— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Section 348.190, RSMo

From Single-Purpose Animal Facilities Loan Guarantee Fund (0 F.T.E.)	\$1E
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SECTION 6.050.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the Agricultural Products Utilization and Business
Development Loan Guarantee Fund

From General Revenue Fund	\$1E
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SECTION 6.055.— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Section 348.409, RSMo

From Agricultural Products Utilization and Business Development Loan Guarantee Fund (0 F.T.E.)	\$1E
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SECTION 6.060.— To the Department of Agriculture

For the Agriculture Business Development Division

For the Agriculture Development Program

Personal Service	\$87,601
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Expense and Equipment	<u>48,422</u>
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For all monies in the Agriculture Development Fund for investments, reinvestments, and for emergency agricultural relief and rehabilitation as provided by law ..	<u>100,000</u>
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From Agriculture Development Fund (Not to exceed 2.00 F.T.E.)	<u>\$236,023</u>
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SECTION 6.065.— To the Department of Agriculture
For the Agriculture Business Development Division
For the "Agri Missouri" Marketing Program

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund \$221,796

Expense and Equipment
From Marketing Development Fund 10,000
Total (Not to exceed 1.00 F.T.E.) \$231,796

SECTION 6.070.— To the Department of Agriculture
For the Agriculture Business Development Division
For the Grape and Wine Market Development Program

Personal Service \$107,452
Expense and Equipment 1,282,150
From Marketing Development Fund (Not to exceed 3.00 F.T.E.) \$1,389,602

SECTION 6.075.— To the Department of Agriculture
For the Division of Market Information and Outreach
For the Market Information and Outreach Program

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund \$608,584

Personal Service 153,577
Expense and Equipment 177,000
For Agriculture Awareness Program 25,000
For the Governor's Conference on Agriculture expense 125,000
From Federal Funds and Other Funds 480,577
Total (Not to exceed 18.10 F.T.E.) \$1,089,161

SECTION 6.080.— To the Department of Agriculture
For the Division of Animal Health

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund \$2,231,113

Personal Service 526,045
Expense and Equipment 964,281
From Federal Funds 1,490,326

Personal Service 140,614
Expense and Equipment 445,200
From Animal Health Laboratory Fee Fund 585,814

Personal Service 306,275
Expense and Equipment 208,151
From Animal Care Reserve Fund 514,426

To support the Livestock Brands Program
From Livestock Brands Fund 41,010

For expenses incurred in regulating Missouri livestock markets
From Livestock Sales and Markets Fees Fund 32,565

For enforcement activities related to the Livestock Dealer Law
 From Livestock Dealer Law Enforcement and Administration Fund 12,250

For processing livestock market bankruptcy claims
 From Agriculture Bond Trustee Fund 135,000

For the expenditures of contributions, gifts, and grants in support of relief efforts
 to reduce the suffering of abandoned animals
 From State Institutions Gift Trust Fund 5,000
 Total (Not to exceed 82.00 F.T.E.) \$5,047,504

SECTION 6.085.— To the Department of Agriculture

For the Division of Animal Health
 For brucellosis ear tags
 From General Revenue Fund (0 F.T.E.) \$1,000

SECTION 6.090.— To the Department of Agriculture

For the Division of Animal Health
 For funding indemnity payments and indemnifying producers and owners
 of livestock and poultry for preventing the spread of disease during
 emergencies declared by the State Veterinarian, subject to the approval
 by the Department of Agriculture of a state match rate up to 50 percent,
 provided that no monies be spent prior to notification of the General Assembly
 From General Revenue Fund (0 F.T.E.) \$1E

SECTION 6.095.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$762,502

Personal Service 40,248
 Expense and Equipment 41,180
 From Federal Funds 81,428

Personal Service 71,145
 Expense and Equipment 23,000
 From Commodity Council Merchandising Fund 94,145

Personal Service 1,500,631
 Expense and Equipment 312,107
 Payment of Federal User Fee 100,000
 From Grain Inspection Fees Fund 1,912,738
 Total (Not to exceed 73.25 F.T.E.) \$2,850,813

SECTION 6.100.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing
 For the Missouri Aquaculture Council
 From Aquaculture Marketing Development Fund \$25,000E

For refunds to individuals and reimbursements to commodity councils
 From Commodity Council Merchandising Fund 85,000E

For research, promotion, and market development of apples
 From Apple Merchandising Fund 12,000E

For the Missouri Wine Marketing and Research Council
 From Missouri Wine Marketing and Research Development Fund 15,000E
 Total (0 F.T.E.) \$137,000

SECTION 6.105.— To the Department of Agriculture

For the Division of Plant Industries

Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,683,659

Personal Service 365,703
 Expense and Equipment 703,050
 From Federal Funds 1,068,753

Personal Service 11,000
 Expense and Equipment 116,500
 From Organic Production and Certification Fee Fund 127,500
 Total (Not to exceed 51.25 F.T.E.) \$2,879,912

SECTION 6.110.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding gypsy moth control, including education, research,
 and management activities, and for the receipt and disbursement of funds
 donated for gypsy moth control, including education, research, and
 management activities. Projects funded with donations, including those
 contributions made by supporting agencies and groups outside the Missouri
 Department of Agriculture, must receive prior approval from a steering
 committee composed of one member each from the Missouri Departments
 of Agriculture, Conservation, Natural Resources, and Economic Development,
 the United States Department of Agriculture, the Missouri wood products
 industry, the University of Missouri, and other groups as deemed necessary
 by the Gypsy Moth Advisory Council, to be co-chaired by the Departments
 of Agriculture and Conservation
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$44,571
 From Federal Funds and Other Funds 100,000
 Total (Not to exceed 2.00 F.T.E.) \$144,571

SECTION 6.115.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding boll weevil suppression and eradication
 Personal Service \$68,626
 Expense and Equipment 30,634
 From Boll Weevil Suppression and Eradication Fund
 (Not to exceed 2.00 F.T.E.) \$99,260

SECTION 6.120.— To the Department of Agriculture

For the Division of Weights and Measures

Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,269,632
 Personal Service 65,160
 Expense and Equipment 767,977

From Federal Funds	833,137
Personal Service	1,339,789
Expense and Equipment	802,883
From Petroleum Inspection Fund	<u>2,142,672</u>
Total (Not to exceed 80.00 F.T.E.)	\$4,245,441

SECTION 6.125.— To the Department of Agriculture

For the Missouri State Fair

Personal Service	
From General Revenue Fund	\$554,416
Personal Service	1,135,588
Expense and Equipment	<u>3,000,496</u>
From State Fair Fees Fund	<u>4,136,084</u>
Total (Not to exceed 61.75 F.T.E.)	\$4,690,500

SECTION 6.130.— To the Department of Agriculture

For cash to start the Missouri State Fair

Expense and Equipment	
From State Fair Fees Fund	\$75,000
From State Fair Trust Fund	<u>10,000</u>
Total (0 F.T.E.)	\$85,000

SECTION 6.135.— To the Department of Agriculture

For the Missouri State Fair

For equipment replacement	
Expense and Equipment	
From State Fair Fees Fund (0 F.T.E.)	\$172,062

SECTION 6.136.— To the Department of Agriculture

For the Missouri State Fair

For the Aid-to-Fairs Premiums Program for youth participants in county, local and district fairs	
From Marketing Development Fund	\$1E

SECTION 6.140.— To the Department of Agriculture

For the State Milk Board

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$133,901
Personal Service and/or Expense and Equipment	
From Milk Inspection Fees Fund	1,768,496
Expense and Equipment	
From State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund	<u>8,000</u>
Total (Not to exceed 18.00 F.T.E.)	\$1,910,397

SECTION 6.200.— To the Department of Natural Resources

For the Office of the Director

Personal Service	\$188,690
Annual salary adjustment in accordance with Section 105.005 RSMo	<u>1,200</u>
From General Revenue Fund	189,890

Personal Service	382,775
Expense and Equipment	100,038
From Federal Funds and Other Funds	<u>482,813</u>
Total (Not to exceed 8.00 F.T.E.)	\$672,703

SECTION 6.205. — To the Department of Natural Resources

For the Outreach and Assistance Center

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$1,944,477

Personal Service	2,827,349
Expense and Equipment	1,788,870
From Federal Funds and Other Funds	<u>4,616,219</u>
Total (Not to exceed 107.84 F.T.E.)	\$6,560,696

SECTION 6.210. — To the Department of Natural Resources

For the Outreach and Assistance Center

For the purpose of funding the promotion of energy, renewable energy, and energy efficient state government

From Federal Funds	\$2,784,474E
From Utilicare Stabilization Fund	100E
From Energy Set-Aside Program Fund	5,500,000E
From Biodiesel Fuel Revolving Fund	25,000E
From Missouri Alternative Fuel Vehicle Loan Fund	<u>2,000</u>
Total (0 F.T.E.)	\$8,311,574

SECTION 6.220. — To the Department of Natural Resources

For the Outreach and Assistance Center

For historic preservation grants and contracts

From Federal Funds (0 F.T.E.)	\$500,000
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SECTION 6.225. — To the Department of Natural Resources

For the Outreach and Assistance Center

For funding environmental education, demonstration projects, and technical assistance grants

From Federal Funds (0 F.T.E.)	\$125,000E
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SECTION 6.230. — To the Department of Natural Resources

For the Division of Administrative Support

Personal Service	
From General Revenue Fund	\$654,835

Personal Service	620,804
Expense and Equipment	984,979
From Federal Funds	<u>1,605,783</u>

Personal Service and/or Expense and Equipment, provided that not more than \$100,000 flexibility is allowed

From Other Funds	<u>5,232,110</u>
Total (Not to exceed 86.75 F.T.E.)	\$7,492,728

SECTION 6.235. — To the Department of Natural Resources

For the purpose of funding agency-wide operations

For Association Dues

From General Revenue Fund	\$60,848
For State Auditor Billing	
From Federal Funds and Other Funds	35,000
For Highway Reviews	
Personal Service	69,619
Expense and Equipment	13,778
From Federal Funds and Other Funds	83,397
For Contractual Audits	
From Federal Funds and Other Funds	100,000
Total (Not to exceed 2.00 F.T.E.)	\$279,245

SECTION 6.240. — To the Department of Natural Resources

For agency-wide operations	
For Homeland Security Grants	
For all costs related to Homeland Security initiatives	
From Federal Funds (Not to exceed 1.00 F.T.E.)	\$410,436E

SECTION 6.245. — To the Department of Natural Resources

For the Board of Trustees for the Petroleum Storage Tank Insurance Fund	
For the general administration and operation of the fund	
Personal Service	\$172,524
Expense and Equipment	2,219,300
For the purpose of investigating and paying claims obligations of the	
Petroleum Storage Tank Insurance Fund	24,990,000E
For the purpose of funding the refunds of erroneously collected receipts . . .	10,000E
From Petroleum Storage Tank Insurance Fund (Not to exceed 3.00 F.T.E.) . .	\$27,391,824

SECTION 6.250. — To the Department of Natural Resources

For the State Environmental Improvement and Energy Resources Authority	
For all costs incurred in the operation of the authority, including special studies	
From State Environmental Improvement Authority Fund (0 F.T.E.)	\$1E

SECTION 6.255. — To the Department of Natural Resources

For the Division of State Parks	
For field operations, administration, and support	
Personal Service	\$97,935
Expense and Equipment	31,428
From Federal Funds	129,363
Personal Service	916,748
Expense and Equipment	3,449,687
From State Park Earnings Fund	4,366,435
Personal Service	1,152,626
Expense and Equipment	146,229
From Department of Natural Resources Cost Allocation Fund	1,298,855
Personal Service	245,966
Expense and Equipment	111,327
From State Facility Maintenance and Operation Fund	357,293

Personal Service and/or Expense and Equipment, provided that not more than \$300,000 flexibility is allowed	26,973,984
For payments to levee districts	1E
From Parks Sales Tax Fund	26,973,985

Personal Service	11,493
Expense and Equipment	5,600
From Meramec-Onondaga State Parks Fund	17,093

Personal Service	53,388
Expense and Equipment	106,579
From Babler State Park Fund	159,967
Total (Not to exceed 757.70 F.T.E.)	\$33,302,991

SECTION 6.260.— To the Department of Natural Resources
 For the Division of State Parks
 For the Bruce R. Watkins Cultural Heritage Center
 From Parks Sales Tax Fund (0 F.T.E.) \$100,000

SECTION 6.265.— To the Department of Natural Resources
 For the Division of State Parks
 For the payment to counties in lieu of 2004 and prior years' real property taxes, as appropriate, on lands acquired by the department after July 1, 1985, for park purposes and not more than the amount of real property tax imposed by political subdivisions at the time acquired, in accordance with the provisions of Section 47(a) of the Constitution of Missouri
 From Parks Sales Tax Fund (0 F.T.E.) \$25,875E

SECTION 6.270.— To the Department of Natural Resources
 For the Division of State Parks
 For parks and historic sites
 For recoupments and donations that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than \$500,000 requires the approval of the chairperson or designee of both Senate Appropriations and House Budget committees
 From State Park Earnings Fund (0 F.T.E.) \$72,390E

SECTION 6.275.— To the Department of Natural Resources
 For the Division of State Parks
 For the purchase of publications, souvenirs, and other items for resale at state parks and state historic sites
 Expense and Equipment
 From State Park Earnings Fund (0 F.T.E.) \$500,000E

SECTION 6.280.— To the Department of Natural Resources
 For the Division of State Parks
 For all expenses incurred in the operation of state park concession projects or facilities when such operations are assumed by the Department of Natural Resources
 From State Park Earnings Fund (0 F.T.E.) \$200,000E

SECTION 6.285.— To the Department of Natural Resources
 For the Division of State Parks
 For the expenditure of grants to state parks
 From Federal Funds and Other Funds (0 F.T.E.) \$350,000

SECTION 6.290.— To the Department of Natural Resources
 For the Division of State Parks
 For Administration and Support
 For grants-in-aid from the Land and Water Conservation Fund and other funds to
 state agencies and political subdivisions for outdoor recreation projects
 From Federal Funds (0 F.T.E.) \$2,324,034E

SECTION 6.300.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division
 For operational maintenance and repairs for state-owned facilities
 From Facilities Maintenance Reserve Fund (0 F.T.E.) \$8,759

SECTION 6.305.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$2,382,723

Personal Service	2,671,272
Expense and Equipment	914,553
From Federal Funds and Other Funds	<u>3,585,825</u>
Total (Not to exceed 125.44 F.T.E.)	\$5,968,548

SECTION 6.310.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division
 For expenditures in accordance with the provisions of Section 259.190, RSMo
 From Oil and Gas Remedial Fund (0 F.T.E.) \$23,000E

SECTION 6.315.— To the Department of Natural Resources
 For the Geological Survey and Resource Assessment Division
 For surveying corners and for records restorations
 From Federal Funds and Other Funds (0 F.T.E.) \$240,000

SECTION 6.320.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division and the Air and Land
 Protection Division
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$3,226,575

Personal Service	30,603,172
Expense and Equipment	14,087,449
From Federal Funds and Other Funds	<u>44,690,621</u>
Total (Not to exceed 873.39 F.T.E.)	\$47,917,196

SECTION 6.325.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division and the Air and Land
 Protection Division
 For the purpose of funding a motor vehicle emissions program
 Personal Service \$739,817
 Expense and Equipment 725,030
 From Missouri Air Emission Reduction Fund, Federal Funds, and Other
 Funds, excluding General Revenue Fund (Not to exceed 22.00 F.T.E.) . . . \$1,464,847

SECTION 6.330.— To the Department of Natural Resources

For the Water Protection and Soil Conservation Division and the Air and Land Protection Division

For grants and contracts to study or reduce water pollution, improve ground water and/or surface water quality, for grants to colleges for wastewater operator training, and for grants for lake restoration

From Federal Funds \$9,444,925E
From Natural Resources Protection Fund-Water Pollution Permit Subaccount 50,000

For drinking water sampling, analysis, and public drinking water quality and treatment studies

From Safe Drinking Water Fund 296,444
Total (0 F.T.E.) \$9,791,369

SECTION 6.335.— To the Department of Natural Resources

For the Water Protection and Soil Conservation Division

For the state's share of construction grants for wastewater treatment facilities

From Water Pollution Control Fund \$3,000,000E

For loans pursuant to Sections 644.026-644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund 60,000,000E

For rural sewer and water grants and loans

From Water Pollution Control Fund and/or Rural Water and Sewer Loan Revolving Fund 20,660,000E

For stormwater control grants or loans

From Stormwater Control Fund and/or Stormwater Loan Revolving Fund . . . 20,000,000E

For loans for drinking water systems pursuant to Sections 644.026-644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater Loan Revolving Fund 14,000,000E
Total (0 F.T.E.) \$117,660,000

SECTION 6.340.— There is transferred out of the State Treasury, chargeable to the Water Pollution Control Fund, to the Water and Wastewater Loan Fund and/or the Water and Wastewater Loan Revolving Fund

From Water Pollution Control Fund (0 F.T.E.) \$10,600,000E

SECTION 6.345.— To the Department of Natural Resources

For the Water Protection and Soil Conservation Division

For closure of concentrated animal feeding operations

From Concentrated Animal Feeding Operation Indemnity Fund (0 F.T.E.) \$100,000

SECTION 6.350.— To the Department of Natural Resources

For the Water Protection and Soil Conservation Division

For demonstration projects and technical assistance related to soil and water conservation

From Federal Funds \$100,000

For grants to local soil and water conservation districts 7,911,992

For soil and water conservation cost-share grants 20,250,000E

For a loan interest-share program 300,000E

For a special area land treatment program 6,896,200E

For grants to colleges and universities for research projects on soil erosion

and conservation	160,000E
From Soil and Water Sales Tax Fund	35,518,192
Total (0 F.T.E.)	\$35,618,192

SECTION 6.355.— To the Department of Natural Resources
 For the Water Protection and Soil Conservation Division and the Air and Land
 Protection Division
 For expenditures of payments received for damages to the state's natural resources
 From Natural Resources Protection Fund-Damages Subaccount or Natural
 Resources Protection Fund-Water Pollution Permit Fee Subaccount (0 F.T.E.) . \$269,711E

SECTION 6.360.— To the Department of Natural Resources
 For the Air and Land Protection Division
 For grants to local air pollution control agencies and to organizations for
 air pollution
 From Federal Funds \$1,409,300
 From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount . 2,027,000

For asbestos grants to local air pollution control agencies
 From Natural Resources Protection Fund-Air Pollution Asbestos Fee Subaccount 75,000
 Total (0 F.T.E.) \$3,511,300

SECTION 6.365.— To the Department of Natural Resources
 For the Air and Land Protection Division
 For the cleanup of leaking underground storage tanks
 From Federal Funds \$800,000

For cleanup of controlled substances
 From Federal Funds 125,000E

For the cleanup of hazardous waste sites
 From Federal Funds and Other Funds 1,000,000E
 From Hazardous Waste Remedial Fund 21,274E
 From Dry-cleaning Environmental Response Trust Fund 200,000E
 Total (0 F.T.E.) \$2,146,274

SECTION 6.370.— To the Department of Natural Resources
 For the Air and Land Protection Division
 For implementation provisions of Solid Waste Management Law in accordance
 with Sections 260.250, RSMo, through 260.345, RSMo, and Section
 260.432, RSMo
 From Solid Waste Management Fund \$6,300,000E
 From Solid Waste Management Fund-Scrap Tire Subaccount 1,637,000E
 Total (0 F.T.E.) \$7,937,000

SECTION 6.375.— To the Department of Natural Resources
 For the Air and Land Protection Division
 For funding expenditures of forfeited financial assurance instruments to ensure
 proper closure and post closure of solid waste landfills, with General Revenue
 Fund expenditures not to exceed collections pursuant to Section 260.228, RSMo
 From General Revenue Fund \$17,304E
 From Post Closure Fund 141,599E
 Total (0 F.T.E.) \$158,903

SECTION 6.380.— To the Department of Natural Resources

For the Air and Land Protection Division

For the receipt and expenditure of bond forfeiture funds for the reclamation of
mined land

From Mined Land Reclamation Fund \$1,400,000

For the reclamation of mined lands under the provisions of Section 444.960, RSMo

From Coal Mine Land Reclamation Fund 850,000

For the reclamation of abandoned mined lands

From Federal Funds 1,750,000

For contracts for hydrologic studies to assist small coal operators to meet
permit requirements

From Federal Funds 50,000

Total (0 F.T.E.) \$4,050,000

SECTION 6.385.— To the Department of Natural Resources

For the Air and Land Protection Division

For contracts for the analysis of hazardous waste samples

From Federal Funds \$100,000

From Hazardous Waste Remedial Fund and/or Hazardous Waste Fund 60,210

For the environmental emergency response system

From Hazardous Waste Fund 30,000E

From Federal Funds 250,000

For emergency response loans in accordance with Section 260.546, RSMo

From Hazardous Waste Fund 150,000

Total (0 F.T.E.) \$590,210

SECTION 6.395.— To the Department of Natural Resources

For revolving services

Expense and Equipment

From Natural Resources Revolving Services Fund (0 F.T.E.) \$2,548,732

SECTION 6.400.— To the Department of Natural Resources

For the purpose of funding the refund of erroneous collected receipts

From any funds administered by the Department of Natural Resources,

except General Revenue Fund (0 F.T.E.) \$250,000E

SECTION 6.405.— To the Department of Natural Resources

For sales tax on retail sales

From any funds administered by the Department of Natural Resources,

except General Revenue Fund (0 F.T.E.) \$235,000E

SECTION 6.410.— To the Department of Natural Resources

For minority and under-represented student scholarships

From General Revenue Fund \$44,410

From Recruitment and Retention Scholarship Fund 50,000

Total (0 F.T.E.) \$94,410

SECTION 6.415.— There is transferred out of the State Treasury to the Department

of Natural Resources Cost Allocation Fund

From Missouri Air Emission Reduction Fund \$274,286

From Solid Waste Management Fund	478,762
From Metallic Minerals Waste Management Fund	15,457
From Hazardous Waste Remedial Fund	238,414
From State Park Earnings Fund	691,297
From Historic Preservation Revolving Fund	16,737
From Natural Resources Protection Fund	10,308
From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount	1,055,313
From Solid Waste Management Fund-Scrap Tire Subaccount	77,384
From Natural Resources Protection Fund-Air Pollution Asbestos Fee Subaccount ..	49,710
From Petroleum Storage Tank Insurance Fund	274,535
From Underground Storage Tank Regulation Program Fund	30,960
From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount ..	1,139,871
From Parks Sales Tax Fund	4,059,440
From Soil and Water Sales Tax Fund	605,135
From Groundwater Protection Fund	53,620
From Energy Set-Aside Program Fund	139,073
From State Land Survey Program Fund	341,897
From Hazardous Waste Fund	411,755
From Safe Drinking Water Fund	440,608
From Missouri Air Pollution Control Fund	1,198
From Dry-cleaning Environmental Response Trust Fund	47,583
Total	<u>\$10,453,343</u>

SECTION 6.600.— To the Department of Conservation

For Personal Service and Expense and Equipment, including refunds; and for payments to counties for the unimproved value of land in lieu of property taxes for privately owned lands acquired by the Conservation Commission after July 1, 1977 and for lands classified as forest croplands	
From Conservation Commission Fund (Not to exceed 1,871.61 F.T.E.)	\$133,931,123

DEPARTMENT OF AGRICULTURE TOTAL

General Revenue Fund	\$15,248,217
Federal Funds	5,490,357
Other Funds	<u>15,354,316</u>
Total	\$36,092,890

DEPARTMENT OF NATURAL RESOURCES TOTAL

General Revenue Fund	\$8,521,062
Federal Funds	45,192,505
Other Funds	<u>275,220,522</u>
Total	\$328,934,089

DEPARTMENT OF CONSERVATION TOTAL

Other Funds	\$133,931,123
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Approved June 16, 2004

HB 1007 [CCS SCS HS HCS HB 1007]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF ECONOMIC DEVELOPMENT, DEPARTMENT OF INSURANCE, AND DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, and Department of Labor and Industrial Relations, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 7.005. — To the Department of Economic Development

For general administration of Administrative Services

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation . .	\$1,879,943
Annual salary adjustment in accordance with Section 105.005, RSMo . . .	<u>1,200</u>
From General Revenue Fund	1,881,143

For the Missouri Downtown and Rural Economic Stimulus Act

Expense and Equipment	
From General Revenue Fund	100,000

Personal Service	3,924,556
Expense and Equipment	<u>2,005,194</u>
From Federal Funds	5,929,750

Personal Service	1,293,137
Expense and Equipment	1,971,610
For refunds	<u>5,000E</u>
From Department of Economic Development Administrative Fund	<u>3,269,747</u>
Total (Not to exceed 173.74 F.T.E.)	\$11,180,640

SECTION 7.015. — To the Department of Economic Development

Funds are to be transferred, for mailroom and support services, administrative services, rent for state office buildings by the Department of Economic Development, and information systems, the following amounts to the Department of Economic Development Administrative Fund

From Federal Funds	\$247,990E
From Division of Tourism Supplemental Revenue Fund	159,347E
From Division of Finance Fund	80,504E
From Division of Credit Unions Fund	32,588E
From Manufactured Housing Fund	11,065E
From Public Service Commission Fund	208,224E
From Professional Registration Fees Fund	<u>593,586E</u>
Total	\$1,333,304

SECTION 7.020.— To the Department of Economic Development

For general administration of Business Services Division activities and programs

Personal Service and/or Expense and Equipment, provided that not more

than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$3,553,294

Personal Service 68,343

Expense and Equipment 6,974

From Federal Funds 75,317

Personal Service

From Federal Funds and Other Funds 151,541

Personal Service 89,338

Expense and Equipment 25,600

From Department of Economic Development Administrative Fund 114,938

Expense and Equipment

From International Promotions Revolving Fund 75,000E

Personal Service

From Missouri Technology Investment Fund 51,878

Personal Service 336,894

Expense and Equipment 88,389

From Missouri Job Development Fund 425,283

For the Missouri Downtown and Rural Economic Stimulus Act

Personal Service 92,316

Expense and Equipment 35,736

From General Revenue Fund 128,052

For the Business Extension Service Team Program

From Business Extension Service Team Fund 1,854,000

For the National Institute of Standards/Missouri Manufacturing Extension Partnership

All Expenditures

From Federal Funds 2,200,000E

From Private Contributions 2,600,000E

From Missouri Technology Investment Fund 1,791,358

For Rolla Innovation Center 320,100

For Southeast Missouri Center Innovation Center 320,100

For St. Louis Innovation Center 400,000

For Fort Leonard Wood Technology Development Project 250,000

For Missouri Technology Corporation and Research Alliance of Missouri 250,000

For Other Innovation Centers 268,000

From Missouri Technology Investment Fund 1,808,200

For the Juneteenth Heritage and Jazz Festival and Memorial Fund. 1E

Total (Not to exceed 54.20 F.T.E.) \$14,828,862

SECTION 7.025.— To the Department of Economic Development

Funds are to be transferred out of the State Treasury, chargeable to the General

Revenue Fund to the Missouri Technology Investment Fund, for the National

Institute of Standards/Missouri Manufacturing Extension Partnership,
Innovation Centers, Fort Leonard Wood Technology Development Project,
Missouri Technology Corporation, and Research Alliance of Missouri
From General Revenue Fund \$3,651,436

SECTION 7.030.— To the Department of Economic Development
For funding new and expanding industry training programs and basic industry
retraining programs
From Missouri Job Development Fund (0 F.T.E.) \$8,583,104E

SECTION 7.035.— To the Department of Economic Development
Funds are to be transferred out of the State Treasury, chargeable to the
General Revenue Fund to the Missouri Job Development Fund
From General Revenue Fund \$8,583,939

SECTION 7.045.— To the Department of Economic Development
For the Missouri Community College New Jobs Training Program
For funding training of workers by community college districts
From Missouri Community College Job Training Program Fund (0 F.T.E.) . . \$16,000,000

SECTION 7.050.— To the Department of Economic Development
For general administration of Community Development activities
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund \$940,899

Personal Service 571,133
Expense and Equipment 411,983
From Federal Funds 983,116

For the Missouri Main Street Program
From Missouri Main Street Program Fund 40,590

For Community Development programs
From Federal Funds 28,000,000E

For the Missouri Community Services Commission
Personal Service
From General Revenue Fund 37,179

Personal Service 170,541
Expense and Equipment 3,168,748E
From Federal and Other Funds 3,339,289

For the Missouri Downtown and Rural Economic Stimulus Act
Personal Service 92,316
Expense and Equipment 35,736
From General Revenue Fund 128,052

For the Brownfield Redevelopment Program
From Property Reuse Fund 1,500,000

For general administration of Community Development Corporations, job training,
or retraining activities
Personal Service and/or Expense and Equipment, provided that not more

than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund 48,799

For Community Development Corporations, job training, or retraining activities
 From General Revenue Fund 753,024
 From Federal and Other Funds 250,000
 From Department of Economic Development Administrative Fund 250,000

For the Youth Opportunities and Violence Prevention Program
 From Youth Opportunities and Violence Prevention Fund 250,000
 Total (Not to exceed 43.75 F.T.E.) \$36,520,948

SECTION 7.053.— To the Department of Economic Development
 Funds are to be transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Missouri Main Street Program Fund
 From General Revenue Fund \$40,590

SECTION 7.055.— To the Department of Economic Development
 Funds are to be transferred out of the State Treasury, chargeable to the
 General Revenue Fund to the Missouri Supplemental Tax Increment
 Financing Fund
 From General Revenue Fund \$3,204,642

SECTION 7.056.— To the Department of Economic Development
 Funds are to be transferred out of the State Treasury, chargeable to the General
 Revenue Fund to the Missouri Supplemental Tax Increment Financing Fund
 From General Revenue Fund \$1E

SECTION 7.060.— To the Department of Economic Development
 For Missouri supplemental tax increment financing as provided in Section 99.845,
 RSMo. This appropriation may be used for the following projects: Kansas
 City Midtown, Excelsior Springs Elms Hotel, Independence Santa Fe Trail
 Neighborhood, St. Louis City Convention Hotel, Cupples Station, Springfield
 Jordan Valley Park, Kansas City Bannister Mall/Three Trails, St. Louis Lambert
 Airport Eastern Perimeter, Old Post Office in Kansas City, 1200 Main Garage
 Project in Kansas City, Riverside Levee, Branson Landing Project, and
 Eastern Jackson County Bass Pro. In accordance with Section 99.845, RSMo,
 the appropriation shall not be made unless the applications for the projects have
 been approved by the director of the Department of Economic Development
 and the commissioner of the Office of Administration
 From Missouri Supplemental Tax Increment Financing Fund \$3,204,642

For Missouri supplemental tax increment financing as provided in Section 99.845,
 RSMo. This appropriation may be used for the following project: Brush
 Creek Corridor. In accordance with Section 99.845, RSMo, the appropriation
 shall not be made unless the applications for the project has been approved by
 the director of the Department of Economic Development and the commissioner
 of the Office of Administration
 From Missouri Supplemental Tax Increment Financing Fund 1E
 Total (0 F.T.E.) \$3,204,643

SECTION 7.065.— To the Department of Economic Development
 For the Missouri Downtown Economic Stimulus Act as provided in Sections
 99.915 to 99.980, RSMo
 From State Supplemental Downtown Development Fund \$1E

For the Missouri Rural Economic Stimulus Act as provided in Section 99.1000
to 99.1060, RSMo

From State Supplemental Rural Development Fund	1E
Total (0 F.T.E.)	\$2

SECTION 7.075.— To the Department of Economic Development

Funds are to be transferred out of the State Treasury, chargeable to the State
Supplemental Downtown Development Fund to the General Revenue Fund

From State Supplemental Downtown Development Fund	\$1E
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Funds are to be transferred out of the State Treasury, chargeable to the State
Supplemental Rural Development Fund to the General Revenue Fund

From State Supplemental Rural Development Fund	1E
Total	\$2

SECTION 7.085.— To the Department of Economic Development

For the Missouri State Council on the Arts

Program Distribution

From General Revenue Fund	\$500,000
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Personal Service	265,727
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Expense and Equipment	699,021
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From Federal Funds	964,748
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Personal Service	418,821
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Expense and Equipment	4,276,838
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From Missouri Arts Council Trust Fund	4,695,659
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Total (Not to exceed 17.00 F.T.E.)	\$6,160,407
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SECTION 7.100.— To the Department of Economic Development

For general administration of Workforce Development activities

For the Division of Workforce Development

Personal Service	\$19,445,814
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Expense and Equipment	4,563,358E
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From Federal Funds	24,009,172
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Personal Service	178,812
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Expense and Equipment	18,955
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From Other Funds	197,767
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Total (Not to exceed 559.72 F.T.E.)	\$24,206,939
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SECTION 7.105.— To the Department of Economic Development

For job training and related activities

From General Revenue Fund	\$1,980,563
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From Federal and Other Funds	90,807,398
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For administration of programs authorized and funded by the United States

Department of Labor, such as Trade Adjustment Assistance (TAA), and
provided that all funds shall be expended from discrete accounts and that
no monies shall be expended for funding administration of these programs
by the Division of Workforce Development

From Federal Funds	7,000,000E
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Total (0 F.T.E.)	\$99,787,961
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SECTION 7.110.— To the Department of Economic Development

For Missouri Women's Council	
Personal Service	\$6,200
Expense and Equipment	5,000
From General Revenue Fund	<u>\$11,200</u>
Personal Service	29,628
Expense and Equipment	19,483
From Federal Funds	<u>49,111</u>
Total (Not to exceed 1.00 F.T.E.)	\$60,311

SECTION 7.115.— To the Department of Economic Development
 For the purchase, lease, and renovation of buildings, land, and erection of buildings
 From Special Employment Security Fund (0 F.T.E.) \$216,000

SECTION 7.120. — To the Department of Economic Development For the Division of Tourism to include coordination of advertising of at least \$70,000 for the Missouri State Fair	
Personal Service	\$1,568,282
Expense and Equipment	16,668,973
From Division of Tourism Supplemental Revenue Fund	<u>18,237,255</u>
Expense and Equipment	
From Tourism Marketing Fund	15,000
Total (Not to exceed 46.00 F.T.E.)	<u>\$18,252,255</u>

SECTION 7.125.— To the Department of Economic Development
 Funds are to be transferred out of the State Treasury, chargeable to the
 General Revenue Fund to the Division of Tourism Supplemental Revenue
 Fund
 From General Revenue Fund \$17,817,811

SECTION 7.130.— To the Department of Economic Development
 For general administration of Affordable Housing activities
 For the Missouri Housing Development Commission
 For funding housing subsidy grants or loans
 From Missouri Housing Trust Fund (0 F.T.E.) \$4,450,000E

SECTION 7.135.— To the Department of Economic Development
 For Manufactured Housing
 Personal Service \$336,236
 Expense and Equipment 187,496
 For Manufactured Housing programs 7,935E
 For refunds 10,000E
 From Manufactured Housing Fund (Not to exceed 9.00 F.T.E.) \$541,667

SECTION 7.140.— To the Department of Economic Development
 For general administration of Financial Institution Safety and Soundness activities
 For the Division of Credit Unions
 Personal Service \$738,377
 Expense and Equipment 130,951
 From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.) \$869,328

SECTION 7.145.— To the Department of Economic Development
 For general administration of Financial Institution Safety and Soundness activities
 For the Division of Finance

Personal Service	\$4,223,244
Expense and Equipment	827,265
For Out-of-State Examinations	50,000E
From Division of Finance Fund (Not to exceed 96.15 F.T.E.)	\$5,100,509

SECTION 7.150.— To the Department of Economic Development

Funds are to be transferred out of the Division of Savings and Loan
Supervision Fund to the Division of Finance Fund, for the purpose of
supervising state chartered savings and loan associations

From Division of Savings and Loan Supervision Fund	\$39,400E
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SECTION 7.155.— To the Department of Economic Development

Funds are to be transferred out of the Division of Finance Fund to the
General Revenue Fund in accordance with Section 361.170, RSMo

From Division of Finance Fund	\$500,000E
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SECTION 7.160.— To the Department of Economic Development

Funds are to be transferred out of the Division of Savings and Loan
Supervision Fund to the General Revenue Fund in accordance with
Section 369.324, RSMo

From Division of Savings and Loan Supervision Fund	\$6,909E
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SECTION 7.165.— To the Department of Economic Development

Funds are to be transferred out of the Residential Mortgage Licensing Fund
to the Division of Finance Fund, for the purpose of administering the
Residential Mortgage Licensing Law

From Residential Mortgage Licensing Fund	\$150,000E
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SECTION 7.170.— To the Department of Economic Development

For the Office of Public Counsel

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 14.00 F.T.E.)	\$835,195
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SECTION 7.175.— To the Department of Economic Development

For general administration of Utility Regulation activities

For the Public Service Commission

Personal Service	\$9,851,490
Annual salary adjustment in accordance with Section 105.005, RSMo	6,000
Expense and Equipment	3,736,614
For refunds	10,000E
From Public Service Commission Fund	13,604,104

For Deaf Relay Service and Equipment Distribution Program

From Deaf Relay Service and Equipment Distribution Program Fund	5,000,000
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Expense and Equipment

From Manufactured Housing Fund	2,235
Total (Not to exceed 211.00 F.T.E.)	\$18,606,339

SECTION 7.200.— To the Department of Economic Development

For general administration of the Division of Professional Registration

Personal Service	\$3,015,799
Expense and Equipment	1,890,015
For examination fees	88,000E

For refunds	35,000E
From Professional Registration Fees Fund (Not to exceed 89.02 F.T.E.)	\$5,028,814

SECTION 7.205.— To the Department of Economic Development

For the State Board of Accountancy

Personal Service	\$242,828
Expense and Equipment	195,718
From State Board of Accountancy Fund (Not to exceed 7.00 F.T.E.)	\$438,546

SECTION 7.210.— To the Department of Economic DevelopmentFor the State Board of Architects, Professional Engineers, Land Surveyors,
and Landscape Architects

Personal Service	\$335,654
Expense and Equipment	405,127
From State Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund (Not to exceed 10.00 F.T.E.)	\$740,781

SECTION 7.215.— To the Department of Economic Development

For the State Board of Barber Examiners

Expense and Equipment	\$38,271
For criminal history checks	1,000E
From Board of Barbers Fund (0 F.T.E.)	\$39,271

SECTION 7.220.— To the Department of Economic Development

For the State Board of Chiropractic Examiners

Expense and Equipment	
From State Board of Chiropractic Examiners' Fund (0 F.T.E.)	\$151,052

SECTION 7.225.— To the Department of Economic Development

For the State Board of Cosmetology

Expense and Equipment	
From State Board of Cosmetology Fund (0 F.T.E.)	\$259,418

SECTION 7.230.— To the Department of Economic Development

For the Missouri Dental Board

Personal Service	\$337,290
Expense and Equipment	265,924
From Dental Board Fund (Not to exceed 9.00 F.T.E.)	\$603,214

SECTION 7.235.— To the Department of Economic Development

For the State Board of Embalmers and Funeral Directors

Expense and Equipment	
From Board of Embalmers and Funeral Directors' Fund	\$149,634

SECTION 7.240.— To the Department of Economic Development

For the State Board of Registration for the Healing Arts

Personal Service	\$1,627,221
Expense and Equipment	702,605
For payment of fees for testing services	187,568E
From Board of Registration for Healing Arts Fund (Not to exceed 44.08 F.T.E.)	\$2,517,394

SECTION 7.245.— To the Department of Economic Development

For the State Board of Nursing

Personal Service	\$926,881
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Expense and Equipment	758,360
For criminal history checks	<u>174,979E</u>
From State Board of Nursing Fund (Not to exceed 28.50 F.T.E.)	\$1,860,220

SECTION 7.250.— To the Department of Economic Development

For the State Board of Optometry

Expense and Equipment	
From Optometry Fund (0 F.T.E.)	\$42,604

SECTION 7.255.— To the Department of Economic Development

For the State Board of Pharmacy

Personal Service	\$554,205
Expense and Equipment	606,756
For criminal history checks	<u>150,000E</u>
From Board of Pharmacy Fund (Not to exceed 13.00 F.T.E.)	\$1,310,961

SECTION 7.260.— To the Department of Economic Development

For the State Board of Podiatric Medicine

Expense and Equipment	
From State Board of Podiatric Medicine Fund (0 F.T.E.)	\$21,681

SECTION 7.265.— To the Department of Economic Development

For the Missouri Real Estate Commission

Personal Service	\$836,052
Expense and Equipment	294,734
For criminal history checks	<u>30,000E</u>
From Real Estate Commission Fund (Not to exceed 25.00 F.T.E.)	\$1,160,786

SECTION 7.270.— To the Department of Economic Development

For the Missouri Veterinary Medical Board

Expense and Equipment	\$71,096
For payment of fees for testing services	<u>40,000E</u>
From Veterinary Medical Board Fund (0 F.T.E.)	\$111,096

SECTION 7.275.— To the Department of Economic Development

Funds are to be transferred out of the Escrow Agent Administration Fund
to the Real Estate Commission Fund for the purpose of administering the
Escrow Agent Law

From Escrow Agent Administration Fund	\$15,000E
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SECTION 7.280.— To the Department of Economic Development

For funding transfer of funds to the General Revenue Fund

From State Board of Accountancy Fund	\$28,000E
From State Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Fund	122,100E
From Athletic Fund	14,400E
From Board of Barbers Fund	14,050E
From State Board of Chiropractic Examiners' Fund	8,000E
From Clinical Social Workers Fund	9,064E
From State Board of Cosmetology Fund	77,200E
From Committee of Professional Counselors Fund	15,000E
From Dental Board Fund	31,200E
From Dietitian Fund	1,200E
From Board of Embalmers and Funeral Directors' Fund	85,000E
From Endowed Care Cemetery Audit Fund	9,100E

From the Board of Geologist Registration Fund	7,200E
From Board of Registration for Healing Arts Fund	190,000E
From Hearing Instrument Specialist Fund	7,700E
From Interior Designer Council Fund	1,200E
From Marital and Family Therapists' Fund	2,200E
From State Board of Nursing Fund	135,000E
From Missouri Board of Occupational Therapy Fund	8,961E
From Optometry Fund	13,408E
From Board of Pharmacy Fund	119,000E
From State Board of Podiatric Medicine Fund	7,700E
From State Committee of Psychologists Fund	26,000E
From Missouri Real Estate Appraisers Fund	51,000E
From Respiratory Care Practitioners Fund	6,250E
From State Committee of Interpreters Fund	7,800E
From Real Estate Commission Fund	150,000E
From Veterinary Medical Board Fund	22,200E
From Acupuncturist Fund	3,000E
From Tattoo Fund	5,047E
From Massage Therapy Fund	5,200E
Total	<u>\$1,183,180</u>

SECTION 7.285.— To the Department of Economic Development

Funds are to be transferred, for payment of operating expenses, the following amounts to the Professional Registration Fees Fund

From State Board of Accountancy Fund	\$133,938E
From State Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund	278,472E
From Athletic Fund	189,295E
From Board of Barbers Fund	165,059E
From State Board of Chiropractic Examiners' Fund	133,850E
From Clinical Social Workers Fund	214,657E
From State Board of Cosmetology Fund	1,457,468E
From Committee of Professional Counselors Fund	283,797E
From Dental Board Fund	69,800E
From Dietitian Fund	56,348E
From Board of Embalmers and Funeral Directors' Fund	363,579E
From Endowed Care Cemetery Audit Fund	122,879E
From the Board of Geologist Registration Fund	71,215E
From Board of Registration for Healing Arts Fund	430,439E
From Hearing Instrument Specialist Fund	88,470E
From Interior Designer Council Fund	42,037E
From Marital and Family Therapists' Fund	17,211E
From State Board of Nursing Fund	1,105,148E
From Missouri Board of Occupational Therapy Fund	138,152E
From Optometry Fund	79,961E
From Board of Pharmacy Fund	274,379E
From State Board of Podiatric Medicine Fund	27,269E
From State Committee of Psychologists Fund	348,058E
From Missouri Real Estate Appraisers Fund	419,574E
From Respiratory Care Practitioners Fund	137,692E
From State Committee of Interpreters Fund	48,475E
From Real Estate Commission Fund	540,206E
From Veterinary Medical Board Fund	171,129E
From Tattoo Fund	51,460E
From Acupuncturist Fund	8,298E

From Massage Therapy Fund	146,278E
Total	\$7,614,593

SECTION 7.290.— To the Department of Economic Development

Funds are to be transferred, for funding new licensing activity pursuant to Section 620.106, the following amounts to the Professional Registration Fees Fund

From Any Board Funds	\$1E
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SECTION 7.295.— To the Department of Economic Development

Funds are to be transferred, for the reimbursement of funds loaned for new licensing activity pursuant to Section 620.106, the following amount to the appropriate board fund

From Professional Registration Fees Fund	\$1E
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SECTION 7.700.— To the Department of Insurance

Personal Service	\$5,032,976
Expense and Equipment	1,422,704

From Department of Insurance Dedicated Fund (Not to exceed 140.50 F.T.E.)	\$6,455,680
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SECTION 7.705.— To the Department of Insurance

For market conduct and financial examinations of insurance companies

Personal Service	\$5,177,435
Expense and Equipment	2,051,817

From Insurance Examiners Fund (Not to exceed 77.00 F.T.E.)	\$7,229,252
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SECTION 7.710.— To the Department of Insurance

For refunds

From Insurance Examiners Fund	\$1E
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From Department of Insurance Dedicated Fund	25,000E
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Total (0 F.T.E.)	\$25,001
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SECTION 7.715.— To the Department of Insurance

For the purpose of funding programs providing counseling on health insurance coverage and benefits to Medicare beneficiaries

From Federal Funds	\$450,000
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From Department of Insurance Dedicated Fund	200,000
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Total (0 F.T.E.)	\$650,000
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SECTION 7.800.— To the Department of Labor and Industrial Relations

For the Director and Staff

For life insurance costs

From General Revenue Fund	\$102
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Personal Service	395,052E
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Expense and Equipment	1,500,000E
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For life insurance costs	87,602
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From Unemployment Compensation Administration Fund	1,982,654
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Personal Service	6,281,506
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Annual salary adjustment in accordance with Section 105.005, RSMo	1,200
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Expense and Equipment	8,175,201
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From Department of Labor and Industrial Relations Administrative Fund	14,457,907
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From Workers' Compensation Fund	250
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For life insurance costs	
From Crime Victims' Compensation Fund	25
Total (Not to exceed 156.50 F.T.E.)	\$16,440,938

SECTION 7.805.— To the Department of Labor and Industrial Relations
Funds are to be transferred, for payment of administrative costs, the following amounts
to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund	\$403,935
From Federal Funds	13,010,833
From Workers' Compensation Fund	2,710,486
From Crime Victims' Compensation Fund	93,865
From Special Employment Security Fund	121,862
Total	\$16,340,981

SECTION 7.810.— To the Department of Labor and Industrial Relations
For the Labor and Industrial Relations Commission
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$15,116
Personal Service	270,402
Annual salary adjustment in accordance with Section 105.005, RSMo	600
Expense and Equipment	44,845
From Unemployment Compensation Administration Fund	315,867
Personal Service	488,642
Annual salary adjustment in accordance with Section 105.005 RSMo	3,000
Expense and Equipment	88,192
From Workers' Compensation Fund	579,834
Total (Not to exceed 15.00 F.T.E.)	\$910,817

SECTION 7.815.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For Administration
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$1,051,283
Personal Service	48,268
Expense and Equipment	35,670
From Federal Funds	83,938
Expense and Equipment	
From Child Labor Enforcement Fund	200,000
Total (Not to exceed 24.50 F.T.E.)	\$1,335,221

SECTION 7.820.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For safety and health programs
Personal Service and/or Expense and Equipment

From General Revenue Fund	\$81,076
Personal Service	750,140
Expense and Equipment	318,078E
From Federal Funds	1,068,218

Total (Not to exceed 18.00 F.T.E.) \$1,149,294

SECTION 7.825.— To the Department of Labor and Industrial Relations

For the Division of Labor Standards

For mine safety and health training programs

Personal Service and/or Expense and Equipment

From General Revenue Fund \$61,218

Personal Service 263,039

Expense and Equipment 106,985E

From Federal Funds 370,024

Total (Not to exceed 6.00 F.T.E.) \$431,242

SECTION 7.830.— To the Department of Labor and Industrial Relations

For the State Board of Mediation

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 2.00 F.T.E.) \$122,434

SECTION 7.835.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For the purpose of funding Administration

Personal Service \$8,041,604

Annual salary adjustment in accordance with Section 105.005, RSMo 58,800

Expense and Equipment 1,432,649

Funds are to be transferred from the Workers' Compensation Fund to the

Kids' Chance Scholarship Fund 50,000

From Workers' Compensation Fund 9,583,053

Personal Service 42,756

Expense and Equipment 15,000

From Tort Victims' Compensation Fund 57,756

Personal Service

From Crime Victims' Compensation Fund 21,900

Total (Not to exceed 175.75 F.T.E.) \$9,662,709

SECTION 7.840.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payment of special claims

From Second Injury Fund (0 F.T.E.) \$57,900,000E

SECTION 7.845.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For refunds for overpayment of any tax or any payment credited to the Second

Injury Fund

From Second Injury Fund (0 F.T.E.) \$250,000E

SECTION 7.850.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For Crime Victims' Administration

Expense and Equipment

From Federal Funds \$50,000

Personal Service 273,709

Expense and Equipment	101,558
From Crime Victims' Compensation Fund	375,267
Total (Not to exceed 9.00 F.T.E.)	<u>\$425,267</u>

SECTION 7.855.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payments of claims to crime victims

From Federal Funds	\$2,212,671E
From Crime Victims' Compensation Fund	5,987,329E
Total (0 F.T.E.)	<u>\$8,200,000</u>

SECTION 7.860.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payments of claims to tort victims

From Tort Victims' Compensation Fund (0 F.T.E.)	\$100,000E
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SECTION 7.865.— To the Department of Labor and Industrial Relations

Funds are to be transferred, for payment of office space costs, the following amounts to the Workers' Compensation Fund

From Federal Funds	\$30,548
From Crime Victims' Compensation Fund	190
Total	<u>\$30,738</u>

SECTION 7.870.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

Personal Service

\$26,454,268E

Expense and Equipment

8,962,525E

From Unemployment Compensation Administration Fund (Not to exceed 718.00 F.T.E.)	\$35,416,793
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SECTION 7.875.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

For administration of programs authorized and funded by the United States

Department of Labor, such as Disaster Unemployment Assistance (DUA), and provided that all funds shall be expended from discrete accounts and that no monies shall be expended for funding administration of these programs by the Division of Employment Security

From Unemployment Compensation Administration Fund (0 F.T.E.)	\$7,000,000E
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SECTION 7.880.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

Personal Service

\$457,258

Expense and Equipment

2,080,963E

For interest payments	<u>12,700,000E</u>
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From Special Employment Security Fund (Not to exceed 14.71 F.T.E.)	\$15,238,221
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SECTION 7.885.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

For the payment of refunds set-off against debts as required by Section

143.786, RSMo

From Debt Offset Escrow Fund (0 F.T.E.)	\$2,100,000E
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SECTION 7.895.— To the Department of Labor and Industrial Relations

For the Missouri Commission on Human Rights

Personal Service and/or Expense and Equipment, provided that not more

than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$926,262

Personal Service 811,267E
 Expense and Equipment 212,000E
 From Federal Funds 1,023,267
 Total (Not to exceed 44.95 F.T.E.) \$1,949,529

DEPARTMENT OF ECONOMIC DEVELOPMENT TOTAL

General Revenue Fund \$44,195,819
 Federal Funds 163,389,259
 Other Funds 69,227,236
 Total \$276,812,314

DEPARTMENT OF INSURANCE TOTAL

Federal Funds \$450,000
 Other Funds 13,884,932
 Total \$14,334,932

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TOTAL

General Revenue Fund \$2,661,426
 Federal Funds 62,564,813
 Other Funds 92,970,038
 Total \$158,196,277

Approved June 16, 2004

HB 1008 [CCS SCS HS HCS HB 1008]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF PUBLIC SAFETY.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 8.005.— To the Department of Public Safety

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more

than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$1,243,158
Annual salary adjustment in accordance with Section 105.005, RSMo	
From General Revenue Fund	1,200
Total	1,244,358

Personal Service	403,265
Expense and Equipment	231,894
From Federal Funds	635,159

Personal Service	136,240
Expense and Equipment	1,227,190
From Crime Victims' Compensation Fund	1,363,430

Expense and Equipment	
From Missouri Crime Prevention Information and Programming Fund	50,000
Total (Not to exceed 38.00 F.T.E.)	\$3,292,947

SECTION 8.010.— To the Department of Public Safety

For the Office of the Director

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance Reserve Fund	\$185,889
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SECTION 8.015.— To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Challenge Grant Program

From Federal Funds	\$250,000
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SECTION 8.020.— To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Delinquency Prevention Program

From Federal Funds	\$2,100,000
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SECTION 8.025.— To the Department of Public Safety

For the Office of the Director

For the Juvenile Justice Accountability Incentive Block Grant Program

From Federal Funds	\$5,200,000
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SECTION 8.031.— To the Department of Public Safety

For the Office of the Director

For local matching grants for multi-jurisdictional task forces in second-, third-,
and fourth-class counties

From General Revenue Fund (0 F.T.E.)	\$30,000
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SECTION 8.035.— To the Department of Public Safety

For the Office of the Director

For the Local Law Enforcement Block Grant Program

From Federal Funds	\$800,000
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SECTION 8.040.— To the Department of Public Safety

For the Office of the Director

For the Narcotics Control Assistance Program

From Federal Funds	\$10,000,000
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SECTION 8.045.— To the Department of Public Safety

For the Office of the Director
For the Services to Victims Program
From Services to Victims Fund \$3,500,000

For counseling and other support services for crime victims
From Crime Victims' Compensation Fund 50,000
Total \$3,550,000

SECTION 8.050.— To the Department of Public Safety

For the Office of the Director
For the Victims of Crime Program
From Federal Funds \$8,900,000

SECTION 8.055.— To the Department of Public Safety

For the Office of the Director
For the Violence Against Women Program
From Federal Funds \$2,800,000

SECTION 8.060.— To the Department of Public Safety

For the purpose of funding regional crime labs on a matching reimbursement basis of one dollar of state funding for each dollar of regional funding provided through fees or contributions that may be collected from local law enforcement agencies in Missouri up to the limit of this appropriation. Support of any non-law enforcement agency, any agency or institution of state government, any agency funded principally through federal entitlement or grant, or any law enforcement agency in a metropolitan area having a population exceeding one hundred thousand shall not be included in determining the regional funding used to calculate the amount of matching state funds
From General Revenue Fund \$223,100

SECTION 8.065.— To the Department of Public Safety

For the National Forensic Sciences Improvement Act Program
From Federal Funds \$320,000

SECTION 8.070.— To the Department of Public Safety

For the State Forensic Laboratory Program
From State Forensic Laboratory Fund \$266,000

SECTION 8.075.— To the Department of Public Safety

For the Office of the Director
For the Residential Substance Abuse Treatment Program
From Federal Funds \$1,227,000

SECTION 8.080.— To the Department of Public Safety

For the Office of the Director
For peace officer training
From Peace Officer Standards and Training Commission Fund \$1,500,000

SECTION 8.085.— To the Department of Public Safety

For the Capitol Police
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 40.00 F.T.E.) \$1,420,185

SECTION 8.090.— To the Department of Public Safety

For the State Highway Patrol	
For Administration	
Expense and Equipment	
From General Revenue Fund	\$20,155
 For the High-Intensity Drug Trafficking Area Program	
From Federal Funds	1,500,000E
 Personal Service	4,979,200
Expense and Equipment	402,877
From State Highways and Transportation Department Fund	5,382,077
 Expense and Equipment	
From Gaming Commission Fund	4,865
Total (Not to exceed 119.00 F.T.E.)	\$6,907,097

SECTION 8.091.— To the Department of Public Safety

For the State Highway Patrol	
For the purpose of funding a market-based salary adjustment for members	
of the State Highway Patrol	
Personal Service	
From General Revenue Fund	\$391,259
From State Highways and Transportation Department Fund	2,812,506
From Criminal Record System Fund	8,340
 For fringe benefit cost increases associated with the market-based salary adjustment	
for members of the Highways and Transportation Employees' and Highway	
Patrol Retirement System	
Personal Service Benefits	
From General Revenue Fund	180,175
From State Highways and Transportation Department Fund	1,295,159
From Criminal Record System Fund	3,841
Total	\$4,691,280

SECTION 8.092.— To the Department of Public Safety

For the State Highway Patrol	
For the purpose of funding a salary adjustment for members of the State	
Highway Patrol's communications Staff	
Personal Service	\$19,200
 For fringe benefit cost increases associated with the salary adjustment for the	
State Highway Patrol's communications staff	
Personal Service Benefits	5,430
From State Highways and Transportation Department Fund	\$24,630

SECTION 8.095.— To the Department of Public Safety

For the State Highway Patrol	
For fringe benefits, including retirement contributions for members of the	
Highways and Transportation Employees' and Highway Patrol Retirement	
System, and insurance premiums	
Personal Service and/or Expense and Equipment, provided that not more	
than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$3,672,907E
 Personal Service	1,116,216E

Expense and Equipment	64,647E
From Federal Funds	1,180,863
Personal Service	84,088E
Expense and Equipment	8,261E
From Gaming Commission Fund	92,349
Personal Service	37,901,696E
Expense and Equipment	3,260,901E
From State Highways and Transportation Department Fund	41,162,597
Personal Service	1,456,208E
Expense and Equipment	117,717E
From Criminal Record System Fund	1,573,925
Personal Service	52,868E
Expense and Equipment	3,661E
From Highway Patrol Academy Fund	56,529
Personal Service	14,404E
Expense and Equipment	1,423E
From Criminal Justice Network and Technology Revolving Fund	15,827
Total	\$47,754,997

SECTION 8.100. — To the Department of Public Safety

For the State Highway Patrol

Funds are to be transferred out of the state treasury, chargeable to the
Federal Drug Seizure Fund, to the General Revenue Fund

From Federal Drug Seizure Fund \$229,876

SECTION 8.105. — To the Department of Public Safety

For the State Highway Patrol

For the Enforcement Program

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$6,230,412

Personal Service	2,180,205
Expense and Equipment	6,613,429
From Federal Funds	8,793,634

Personal Service	47,093,039
Expense and Equipment	4,339,194
From State Highways and Transportation Department Fund	51,432,233

Personal Service	2,514,651
Expense and Equipment	1,663,392
National Criminal Record Reviews	600,000E
From Criminal Record System Fund	4,778,043

Personal Service	29,640
Expense and Equipment	83,663
From Gaming Commission Fund	113,303

Expense and Equipment

From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund	189,000
From Highway Patrol Traffic Records Fund	127,852

All expenditures must be in compliance with the United States Department of Justice equitable sharing program guidelines

Expense and Equipment	
From General Revenue Fund	229,876
Total (Not to exceed 1,381.50 F.T.E.)	\$71,894,353

SECTION 8.110.— To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including aircraft, and Gaming Commission vehicles

Expense and Equipment	
From General Revenue Fund	\$138,437
From Gaming Commission Fund	170,772
From State Highways and Transportation Department Fund	1,733,377
Total	\$2,042,586

SECTION 8.115.— To the Department of Public Safety

For the State Highway Patrol

For purchase of vehicles for the State Highway Patrol and the Gaming Commission

Expense and Equipment	
From State Highways and Transportation Department Fund	\$3,887,946
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund	5,855,936
From Gaming Commission Fund	474,571
Total	\$10,218,453

SECTION 8.120.— To the Department of Public Safety

For the State Highway Patrol

For the Crime Labs

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$997,154
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Personal Service	201,443
Expense and Equipment	1,581,223
For grants to St. Louis City and St. Louis County Forensic DNA Labs	377,698
From Federal Funds	2,160,364

Personal Service	1,835,271
Expense and Equipment	399,277
From State Highways and Transportation Department Fund	2,234,548

Personal Service	63,776
Expense and Equipment	3,600
From Criminal Record System Fund	67,376

Expense and Equipment	
From State Forensic Laboratory Fund	60,000
Total (Not to exceed 66.00 F.T.E.)	\$5,519,442

SECTION 8.125.— To the Department of Public Safety

For the State Highway Patrol

For the Law Enforcement Academy

Personal Service	\$135,490
Expense and Equipment	60,000
From Federal Funds	<u>195,490</u>

Personal Service	148,032
Expense and Equipment	132,112
From Gaming Commission Fund	<u>280,144</u>

Personal Service	1,081,494
Expense and Equipment	144,139
From State Highways and Transportation Department Fund	<u>1,225,633</u>

Personal Service	87,059
Expense and Equipment	653,260
From Highway Patrol Academy Fund	740,319
Total (Not to exceed 39.00 F.T.E.)	<u>\$2,441,586</u>

SECTION 8.130.— To the Department of Public Safety

For the State Highway Patrol

For Vehicle and Driver Safety

Personal Service	\$9,369,936
Expense and Equipment	845,252
From State Highways and Transportation Department Fund	<u>10,215,188</u>

Expense and Equipment	
From Highway Patrol Inspection Fund	37,725
Total (Not to exceed 287.00 F.T.E.)	<u>\$10,252,913</u>

SECTION 8.135.— To the Department of Public Safety

For the State Highway Patrol

For refunding unused motor vehicle inspection stickers

From State Highways and Transportation Department Fund \$40,000E

SECTION 8.140.— To the Department of Public Safety

For the State Highway Patrol

For Technical Services

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	<u>\$477,492</u>

Personal Service	187,806
Expense and Equipment	13,244,668
From Federal Funds	<u>13,432,474</u>

Personal Service	9,776,581
Expense and Equipment	10,241,749
From State Highways and Transportation Department Fund	<u>20,018,330</u>

Personal Service	462,944
Expense and Equipment	1,754,374
From Criminal Record System Fund	<u>2,217,318</u>

Personal Service	
From Gaming Commission Fund	18,582

Personal Service	40,956
Expense and Equipment	<u>1,500,000E</u>
From Criminal Justice Network and Technology Revolving Fund	<u>1,540,956</u>
Total (Not to exceed 267.00 F.T.E.)	\$37,705,152

SECTION 8.141.— To the Department of Public Safety

For the State Highway Patrol

For emergency expense reimbursement

Expense and Equipment

From the Highway Patrol Expense Fund \$20,000E

SECTION 8.142.— To the Department of Public Safety

For the State Highway Patrol

Expense and Equipment

For uniform and uniform item purchases

From the Highway Patrol Expense Fund \$15,000E

SECTION 8.143.— To the Department of Public Safety

For the State Highway Patrol

Expense and Equipment

For payment of death and other benefits

From the Highway Patrol Expense Fund \$30,000E

SECTION 8.145.— To the Department of Public Safety

For the State Water Patrol

Funds are to be transferred out of the state treasury, chargeable to the

Federal Drug Seizure Fund, to the General Revenue Fund

From Federal Drug Seizure Fund \$42,122

SECTION 8.150.— To the Department of Public Safety

For the State Water Patrol

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$5,362,639

Personal Service 327,875

Expense and Equipment 1,495,900E

From Federal Funds 1,823,775

For the State Water Patrol

All expenditures must be in compliance with the United States Department
of Justice equitable sharing program guidelines

Expense and Equipment

From General Revenue Fund 42,122

Total (Not to exceed 128.50 F.T.E.) \$7,228,536

SECTION 8.155.— To the Department of Public Safety

For the Division of Alcohol and Tobacco Control

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$2,768,367

From Healthy Families Trust Fund-Tobacco Prevention Account 134,664

Personal Service 291,147

Expense and Equipment 185,768

From Federal Funds	476,915
Total (Not to exceed 61.00 F.T.E.)	<u>\$3,379,946</u>

SECTION 8.160.— To the Department of Public Safety

For the Division of Liquor Control

For refunds for unused liquor and beer licenses and for liquor and beer stamps
not used and canceled

From General Revenue Fund \$18,000E

SECTION 8.165.— To the Department of Public Safety

For the Division of Fire Safety

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$1,983,929

Personal Service 214,596

Expense and Equipment 65,004

From Elevator Safety Fund 279,600

Personal Service 211,548

Expense and Equipment 167,575From Boiler and Pressure Vessel Safety Fund 379,123Total (Not to exceed 60.92 F.T.E.) \$2,642,652**SECTION 8.170.**— To the Department of Public Safety

For the Division of Fire Safety

For firefighter training contracted services

Expense and Equipment

From General Revenue Fund \$215,908

From Chemical Emergency Preparedness Fund 100,000Total \$315,908**SECTION 8.175.**— To the Department of Public Safety

For the Missouri Veterans' Commission

For Administration and Service to Veterans

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$2,039,946

From Missouri Veterans' Homes Fund 1,341,786

From Veterans' Commission Capital Improvement Trust Fund 1,501,770

From Veterans' Trust Fund 24,800

For Veterans Memorial Videotaping

From General Revenue Fund 1,000,000

From Federal and Other Funds 1ETotal (Not to exceed 97.27 F.T.E.) \$5,908,303**SECTION 8.180.**— To the Department of Public Safety

For the Missouri Veterans' Commission

For Veterans' Service Officer Programs

From Veterans' Commission Capital Improvement Trust Fund \$750,000

SECTION 8.185.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Missouri Veterans' Homes

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$9,797,470
From Missouri Veterans' Homes Fund	45,522,103
Expense and Equipment	
From Veterans' Trust Fund	52,500
Personal Service	
From Veterans' Commission Capital Improvement Trust Fund	25,200
Total (Not to exceed 1,536.98 F.T.E.)	\$55,397,273

SECTION 8.190.— To the Department of Public Safety

For the Gaming Commission

For the Divisions of Gaming and Bingo

Personal Service	\$10,606,885
Expense and Equipment	1,999,291
For National Council of Legislators from Gaming States dues	3,000
From Gaming Commission Fund	12,609,176

Expense and Equipment	
From Compulsive Gamblers Fund	40,000
Total (Not to exceed 229.00 F.T.E.)	\$12,649,176

SECTION 8.191.— To the Department of Public Safety

For the Gaming Commission

For the purpose of funding a market-based salary adjustment for members of the State Highway Patrol assigned to work under the direction of the Gaming Commission

Personal Service	
From Gaming Commission Fund	\$414,675

For fringe benefit cost increases associated with the market-based salary adjustment for members of the Highways and Transportation Employees' and Highway Patrol Retirement System assigned to work under the direction of the Gaming Commission

Personal Service Benefits	
From Gaming Commission Fund	190,958
Total	\$605,633

SECTION 8.195.— To the Department of Public Safety

For the Gaming Commission

For fringe benefits, including retirement contributions for members of the Highways and Transportation Employees' and Highway Patrol Retirement System, and insurance premiums for State Highway Patrol employees assigned to work under the direction of the Gaming Commission

Personal Service Benefits	\$3,027,192E
Expense and Equipment	178,765E
From Gaming Commission Fund	\$3,205,957

SECTION 8.200.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount that is credited to the Gaming Commission Fund

From Gaming Commission Fund	\$15,000E
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SECTION 8.205.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount received
for bingo fees

From Bingo Proceeds for Education Fund \$5,000E

SECTION 8.210.— To the Department of Public Safety

For the Gaming Commission

For breeder incentive payments

From Missouri Breeders Fund \$5,000

SECTION 8.215.— To the Department of Public Safety

For the Adjutant General

Funds are to be transferred out of the state treasury, chargeable to the
Federal Drug Seizure Fund, to the General Revenue Fund

From Federal Drug Seizure Fund \$36,984

SECTION 8.220.— To the Adjutant General

For Missouri Military Forces Administration

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$1,780,617

All expenditures must be in compliance with the United States Department
of Justice equitable sharing program guidelines

Expense and Equipment

From General Revenue Fund 36,984

Total (Not to exceed 45.38 F.T.E.) \$1,817,601

SECTION 8.225.— To the Adjutant General

For activities in support of the Guard, including the National Guard Tuition

Assistance Program and the Military Honors Program

Personal Service and/or Expense and Equipment, provided that not more
than \$200,000 flexibility is allowed

From the Missouri National Guard Trust Fund (Not to exceed 42.40 F.T.E.) . . \$5,052,153

SECTION 8.230.— To the Adjutant General

For operational maintenance and repairs for state and federally owned facilities

From Facilities Maintenance Reserve Fund \$399,881

SECTION 8.235.— To the Adjutant General

For Missouri Military Forces Field Support

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$2,100,591

Fuel and Utilities

From Federal Funds 600,000

Total (Not to exceed 42.32 F.T.E.) \$2,700,591

SECTION 8.240.— To the Adjutant General

For fuel and utility expenses at armories from armory rental fees

Expense and Equipment

From Adjutant General Revolving Fund \$25,000E

SECTION 8.245.— To the Adjutant General

For training site operating costs

Expense and Equipment

From Missouri National Guard Training Site Fund \$244,800E

SECTION 8.250.— To the Adjutant General

For Missouri Military Forces Contract Services

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$1,021,561

Personal Service 9,047,002

Expense and Equipment 6,900,000E

For refunds of federal overpayments to the state for the Contract Services

Program 30,000E

From Federal Funds 15,977,002

Personal Service

From Missouri National Guard Training Site Fund 17,172

Total (Not to exceed 312.33 F.T.E.) \$17,015,735

SECTION 8.255.— To the Adjutant General

For the Office of Air Search and Rescue

Expense and Equipment

From General Revenue Fund \$17,872

SECTION 8.260.— To the Adjutant General

For the Veterans' Recognition Program

Personal Service \$112,992

Expense and Equipment 705,601

From Veterans' Commission Capital Improvement Trust

Fund (Not to exceed 4.00 F.T.E.) \$818,593

SECTION 8.265.— To the Adjutant General

For the State Emergency Management Agency

For Administration and Emergency Operations

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$2,084,246

Personal Service 974,909

Expense and Equipment 710,190

From Federal Funds 1,685,099

Personal Service 169,593

Expense and Equipment 68,884

From Chemical Emergency Preparedness Fund 238,477

Total (Not to exceed 67.76 F.T.E.) \$4,007,822

SECTION 8.270.— To the Adjutant General

For the State Emergency Management Agency

For the Community Right-to-Know Act

From Chemical Emergency Preparedness Fund \$650,000

For distribution of funds to local emergency planning commissions to implement

the federal Hazardous Materials Transportation Uniform Safety Act of 1990
 From Federal Funds 350,000
 Total \$1,000,000

SECTION 8.275.— To the Adjutant General

For the State Emergency Management Agency

For all allotments, grants, and contributions from federal and other sources that
 are deposited in the state treasury for administrative and training expenses
 of the State Emergency Management Agency

From Federal and Other Funds \$1,500,000E

Funds for first responder training programs shall be distributed with the review
 and recommendation of the House Budget Committee Chair, Senate
 Appropriations Committee Chair, and the Chair and Vice Chair of the
 Joint Committee on Homeland Security

From Federal Funds 5,000,000E

For all allotments, grants, and contributions from federal and other sources that are
 deposited in the state treasury for the use of the State Emergency Management
 Agency for alleviating distress from disasters

From Missouri Disaster Fund 500,000E

To provide matching funds for federal grants and for emergency assistance
 expenses of the State Emergency Management Agency as provided in
 Section 44.032, RSMo

From General Revenue Fund 1E
 Total \$7,000,001

SECTION 8.280.— Funds are to be transferred out of the state treasury, chargeable
 to the Veterans' Commission Capital Improvement Trust Fund, to the
 Veterans' Homes Fund

From Veterans' Commission Capital Improvement Trust Fund \$500,000E

SECTION 8.285.— Funds are to be transferred out of the state treasury, chargeable
 to the Gaming Commission Fund, to the Veterans' Commission Capital
 Improvement Trust Fund

From Gaming Commission Fund \$6,000,000E

SECTION 8.290.— Funds are to be transferred out of the state treasury, chargeable
 to the Gaming Commission Fund, to the Missouri National Guard Trust Fund

From Gaming Commission Fund \$4,000,000E

SECTION 8.295.— Funds are to be transferred out of the state treasury, chargeable
 to the Gaming Commission Fund, to the Missouri College Guarantee Fund

From Gaming Commission Fund \$5,000,000E

SECTION 8.300.— Funds are to be transferred out of the state treasury, chargeable
 to the Gaming Commission Fund, to the Early Childhood Development,
 Education and Care Fund

From Gaming Commission Fund \$26,371,000E

SECTION 8.305.— Funds are to be transferred out of the state treasury, chargeable
 to the Gaming Commission Fund, to the Compulsive Gamblers Fund

From Gaming Commission Fund \$489,850

SECTION 8.310.— Funds are to be transferred out of the state treasury, chargeable to the Highway Patrol Inspection Fund, to the State Road Fund
 From Highway Patrol Inspection Fund \$1E

DEPARTMENT OF PUBLIC SAFETY TOTALS

General Revenue Fund	\$45,507,763
Federal Funds	87,377,775
Other Funds	<u>245,269,735</u>
Total	\$378,155,273

Approved June 16, 2004

HB 1009 [CCS SCS HS HCS HB 1009]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF CORRECTIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 9.005.— To the Department of Corrections
 For the purpose of funding the Office of the Director
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation . . \$3,027,572
 Annual salary adjustment in accordance with Section 105.005, RSMo . . . 1,200
 From General Revenue Fund 3,028,772

For the purpose of funding all costs associated with the Offender Reentry Program
 From General Revenue Fund 411,000
 From Federal Funds 50,000
 Total (Not to exceed 85.74 F.T.E.) \$3,489,772

SECTION 9.010.— To the Department of Corrections
 For the Office of the Director
 For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may become available between sessions of the general assembly
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From Federal Funds (Not to exceed 72.00 F.T.E.) \$7,313,834E

SECTION 9.020.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of fuel and utilities department-wide

Expense and Equipment

From General Revenue Fund \$20,643,388

From Working Capital Revolving Fund 1,500,000

Total \$22,143,388

SECTION 9.025.— To the Board of Public Buildings

For the Department of Corrections

For payment of rent by the Department of Corrections to the Board for the

Farmington Correctional Center and the Fulton Reception and Diagnostic
Center. Funds to be used by the Board for fuel and utilities

Expense and Equipment

From General Revenue Fund \$3,366,074

SECTION 9.030.— To the Department of Corrections

For the Office of the Director

For the purchase, transportation, and storage of food and food service items and
food service facilities at all correctional institutions

Expense and Equipment

From General Revenue Fund \$24,438,476

From Federal Funds 450,000

Total \$24,888,476

SECTION 9.035.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the operational maintenance and repairs for
state-owned facilities

Expense and Equipment

From Facilities Maintenance Reserve Fund \$1,218,750

SECTION 9.040.— To the Department of Corrections

For the Office of the Director

For Public School Retirement contributions

From General Revenue Fund \$1E

SECTION 9.045.— To the Department of Corrections

For the Office of the Director

For the purpose of funding costs associated with increased offender population
department-wide, including, but not limited to, funding for personal service,
expense and equipment, contractual services, repairs, renovations, capital
improvements, and compensatory time

From General Revenue Fund \$10,076,767

SECTION 9.050.— To the Department of Corrections

For the Office of the Director

For the purpose of funding data processing and information systems costs
department-widePersonal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 54.79 F.T.E.) \$6,285,612

SECTION 9.055.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of telecommunications department-wide Expense and Equipment	
From General Revenue Fund	\$3,033,747
From Working Capital Revolving Fund	256,400
Total	<u>\$3,290,147</u>

SECTION 9.100. — To the Department of Corrections

For the Division of Human Services

For the purpose of funding General Services

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$8,931,361
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Personal Service

From Working Capital Revolving Fund	76,725
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Personal Service	320,423
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Expense and Equipment	63,049
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From Inmate Revolving Fund	<u>383,472</u>
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Total (Not to exceed 284.16 F.T.E.)	<u>\$9,391,558</u>
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SECTION 9.105. — To the Department of Corrections

For the purpose of funding General Services

Expense and Equipment

From General Revenue Fund	\$333,442
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SECTION 9.110. — To the Department of Corrections

For the Division of Human Services

For the purpose of funding training costs department-wide

Expense and Equipment

From General Revenue Fund	\$1,741,264
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SECTION 9.115. — To the Department of Corrections

For the Division of Human Services

For the purpose of funding employee health and safety

Expense and Equipment

From General Revenue Fund	\$441,560
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SECTION 9.195. — To the Department of Corrections

For the purpose of funding the Division of Adult Institutions

For the Central Office

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$2,117,351
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Personal Service

From Working Capital Revolving Fund	58,006
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Total (Not to exceed 61.70 F.T.E.)	<u>\$2,175,357</u>
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SECTION 9.200. — To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the inmate wage and discharge costs at all correctional
facilities

Expense and Equipment

From General Revenue Fund	\$3,782,646
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SECTION 9.205.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the expenses and small equipment purchased at any
of the adult institutions department-wide
Expense and Equipment

From General Revenue Fund \$18,519,219

SECTION 9.210.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding all costs associated with site security and upkeep at
the Missouri State Penitentiary at Jefferson City

From General Revenue Fund \$561,459

SECTION 9.215.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Jefferson City Correctional Center
Personal Service

From General Revenue Fund \$16,609,849

From Working Capital Revolving Fund 203,024

Total (Not to exceed 606.41 F.T.E.) \$16,812,873

SECTION 9.220.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Central Missouri Correctional Center at
Jefferson City
Personal Service

From General Revenue Fund (Not to exceed 282.87 F.T.E.) \$7,960,220

SECTION 9.225.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Women's Eastern Reception and Diagnostic
Center at Vandalia
Personal Service

From General Revenue Fund (Not to exceed 397.00 F.T.E.) \$11,050,877

SECTION 9.230.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Ozark Correctional Center at Fordland
Personal Service

From General Revenue Fund \$4,391,798

From Inmate Revolving Fund 291,000

Total (Not to exceed 163.39 F.T.E.) \$4,682,798

SECTION 9.235.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Moberly Correctional Center
Personal Service

From General Revenue Fund \$10,722,744

From Working Capital Revolving Fund 169,220

Total (Not to exceed 386.52 F.T.E.) \$10,891,964

SECTION 9.240.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Algoa Correctional Center at Jefferson City
Personal Service

From General Revenue Fund (Not to exceed 314.01 F.T.E.) \$8,658,111

SECTION 9.245.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Missouri Eastern Correctional Center at Pacific

Personal Service

From General Revenue Fund \$6,440,378

From Working Capital Revolving Fund 56,806

Total (Not to exceed 242.88 F.T.E.) \$6,497,184

SECTION 9.250.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Chillicothe Correctional Center

Personal Service

From General Revenue Fund \$4,142,637

From Inmate Revolving Fund 25,222

Total (Not to exceed 149.49 F.T.E.) \$4,167,859

SECTION 9.255.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Boonville Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 292.86 F.T.E.) \$8,221,249

SECTION 9.260.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Farmington Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 553.76 F.T.E.) \$15,452,878

SECTION 9.265.— To the Board of Public Buildings

For the purpose of funding payment of rent by the Department of Corrections

(Division of Adult Institutions) to the Board

For the Farmington Correctional Center

Funds to be used by the Board for Personal Service \$1,227,530

Funds to be used by the Board for Expense and Equipment 175,547

From General Revenue Fund (Not to exceed 40.76 F.T.E.) \$1,403,077

SECTION 9.275.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Western Missouri Correctional Center at Cameron

Personal Service

From General Revenue Fund (Not to exceed 485.54 F.T.E.) \$14,167,955

SECTION 9.280.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Potosi Correctional Center, provided that the

Department of Corrections adjusts its staffing equalization plan for
correctional officers at Potosi to restore enough correctional officers to
reflect the needs of a C5 level facility which has severe and unique
custody requirements

Personal Service

From General Revenue Fund (Not to exceed 328.78 F.T.E.) \$9,178,658

SECTION 9.285.— To the Department of Corrections

For the Division of Adult Institutions
For the purpose of funding the Fulton Reception and Diagnostic Center
Personal Service
From General Revenue Fund (Not to exceed 310.16 F.T.E.) \$8,521,156

SECTION 9.290.— To the Board of Public Buildings
For the purpose of funding payment of rent by the Department of Corrections
(Division of Adult Institutions) to the Board
For the Fulton Reception and Diagnostic Center
Funds to be used by the Board for Personal Service \$494,932
Funds to be used by the Board for Expense and Equipment 48,533
From General Revenue Fund (Not to exceed 16.90 F.T.E.) \$543,465

SECTION 9.295.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Tipton Correctional Center
Personal Service
From General Revenue Fund \$10,450,282
From Inmate Revolving Fund 79,945
Total (Not to exceed 376.64 F.T.E.) \$10,530,227

SECTION 9.300.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Reception and Diagnostic Center
at St. Joseph
Personal Service
From General Revenue Fund (Not to exceed 585.00 F.T.E.) \$15,771,593

SECTION 9.305.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Maryville Treatment Center
Personal Service
From General Revenue Fund (Not to exceed 234.00 F.T.E.) \$6,384,280

SECTION 9.310.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Crossroads Correctional Center at Cameron
Personal Service
From General Revenue Fund (Not to exceed 405.00 F.T.E.) \$10,803,826

SECTION 9.315.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Northeast Correctional Center at Bowling Green
Personal Service
From General Revenue Fund (Not to exceed 547.00 F.T.E.) \$14,611,518

SECTION 9.320.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Eastern Reception and Diagnostic Center
at Bonne Terre
Personal Service
From General Revenue Fund (Not to exceed 760.00 F.T.E.) \$20,178,140

SECTION 9.325.— To the Department of Corrections
For the Division of Adult Institutions

For the purpose of funding the South Central Correctional Center at Licking
 Personal Service
 From General Revenue Fund (Not to exceed 423.00 F.T.E.) \$11,156,384

SECTION 9.330.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Southeast Correctional Center at Charleston
 Personal Service
 From General Revenue Fund (Not to exceed 428.00 F.T.E.) \$11,141,729

SECTION 9.400.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding the Central Office
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 45.15 F.T.E.) \$1,946,021

SECTION 9.405.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding contractual services for offender physical and
 mental health care
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$87,186,330

Expense and Equipment
 From Federal Funds 1E
 Total (Not to exceed 93.00 F.T.E.) \$87,186,331

SECTION 9.415.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding medical equipment
 Expense and Equipment
 From General Revenue Fund \$241,560

SECTION 9.425.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding the provision of inmate jobs department-wide,
 including, but not limited to, offender employment, both institutional and
 industrial; drug and alcohol treatment; and education, both academic and
 vocational
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$22,240,485

Personal Service 993,565
 Expense and Equipment 718,043
 From Working Capital Revolving Fund 1,711,608

Personal Service and/or Expense and Equipment
 From Correctional Substance Abuse Earnings Fund 264,600
 Total (Not to exceed 385.00 F.T.E.) \$24,216,693

SECTION 9.430.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services

For the purpose of funding Missouri Correctional Enterprises
 Personal Service \$7,465,233
 Expense and Equipment 25,844,542
 From Working Capital Revolving Fund (Not to exceed 241.00 F.T.E.) \$33,309,775

SECTION 9.435.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding the Private Sector/Prison Industry Enhancement Program
 Expense and Equipment
 From Working Capital Revolving Fund \$962,762

SECTION 9.500.— To the Department of Corrections
 For the purpose of funding the Board of Probation and Parole
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation . \$63,193,208
 Annual salary adjustment in accordance with Section 105.005, RSMo ... 8,400
 From General Revenue Fund 63,201,608

Personal Service 124,305
 Expense and Equipment 63,048
 From Inmate Revolving Fund 187,353
 Total (Not to exceed 1,825.08 F.T.E.) \$63,388,961

SECTION 9.505.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding the St. Louis Community Release Center
 Personal Service
 From General Revenue Fund (Not to exceed 130.71 F.T.E.) \$3,743,628

SECTION 9.510.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding the Kansas City Community Release Center
 Personal Service
 From General Revenue Fund \$2,216,863
 From Inmate Revolving Fund 42,982
 Total (Not to exceed 79.69 F.T.E.) \$2,259,845

SECTION 9.515.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding Local Sentencing Initiatives. Prior to placement of an
 offender in any sentencing alternative the court will order an assessment by
 the Division of Probation and Parole to include an evaluation of substance
 abuse history, risk assessment, and criminal history
 Expense and Equipment
 From General Revenue Fund \$3,295,215

For the purpose of funding the Community Corrections Coordination Unit
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund 3,649,209

Personal Service 141,114
 Expense and Equipment 3,052,708
 From Inmate Revolving Fund 3,193,822
 Total (Not to exceed 18.40 F.T.E.) \$10,138,246

DEPARTMENT OF CORRECTIONS TOTALS

General Revenue Fund	\$523,395,862
Federal Funds	7,813,835
Other Funds	<u>42,772,722</u>
Total	\$573,982,419

Approved June 16, 2004

HB 1010 [CCS SCS HS HCS HB 1010]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: DEPARTMENT OF MENTAL HEALTH, BOARD OF PUBLIC BUILDINGS,
DEPARTMENT OF HEALTH AND SENIOR SERVICES, MISSOURI HEALTH FACILITIES
REVIEW COMMITTEE, AND COMMISSION FOR THE MISSOURI SENIOR RX PROGRAM.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health and Senior Services, and the several divisions and programs thereof, the Missouri Health Facilities Review Committee and the Commission for the Missouri Senior Rx Program to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, provided that no funding be used for the purpose of family planning services, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 10.005. — To the Department of Mental Health

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$921,137

Personal Service 62,975

Expense and Equipment 79,285

From Federal Funds 142,260

Total (Not to exceed 17.36 F.T.E.) \$1,063,397

SECTION 10.010. — To the Department of Mental Health

For the Office of the Director

For funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$5,485,822

Personal Service 360,706

Expense and Equipment	584,416
From Federal Funds	<u>945,122</u>
Total (Not to exceed 120.13 F.T.E.)	\$6,430,944

SECTION 10.015.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding the Office of Information Systems

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$5,718,796
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Personal Service	42,440
Expense and Equipment	<u>2,006,691</u>
From Federal Funds	2,049,131

Expense and Equipment	
From Mental Health Interagency Payments Fund	<u>2,800,000</u>
Total (Not to exceed 74.40 F.T.E.)	\$10,567,927

SECTION 10.020.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding insurance, private pay, licensure fee, and/or Medicaid
refunds by state facilities operated by the Department of Mental Health

From General Revenue Fund	\$49,217
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For the payment of refunds set off against debts as required by Section 143.786,
RSMo

From Debt Offset Escrow Fund	<u>70,000E</u>
Total	\$119,217

SECTION 10.025.— There is transferred out of the State Treasury from the
Abandoned Fund Account to the Mental Health Trust Fund

From Abandoned Fund Account	\$50,000E
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SECTION 10.030.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding receipt and disbursement of donations and gifts which
may become available to the Department of Mental Health during the year
(excluding federal grants and funds)

Personal Service	\$749,965
Expense and Equipment	<u>1,283,486</u>
From Mental Health Trust Fund (Not to exceed 11.50 F.T.E.)	\$2,033,451

SECTION 10.035.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding operational maintenance and repairs for state-owned
facilities

Expense and Equipment	
From Facilities Maintenance Reserve Fund	\$1,197,230

SECTION 10.040.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding federal grants which become available between
sessions of the General Assembly

Personal Service	\$102,400
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Expense and Equipment	1,800,000
From Federal Funds (Not to exceed 2.00 F.T.E.)	\$1,902,400

SECTION 10.045.— To the Department of Mental Health

For Medicaid payments related to intergovernmental payments

From Mental Health Intergovernmental Transfer Fund	\$10,000,000
From Federal Funds	15,000,000
Total	\$25,000,000

SECTION 10.050.— There is transferred out of the State Treasury from the

General Revenue Reimbursements Fund to the General Revenue Fund

From General Revenue Reimbursements Fund	\$2,700,000
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SECTION 10.055.— There is transferred out of the State Treasury from Federal Funds to the General Revenue Fund

From Federal Funds	\$50,423,691E
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SECTION 10.105.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the administration of statewide comprehensive

alcohol and drug abuse prevention and treatment programs

Personal Service and/or Expense and Equipment, provided that not more

than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$1,245,945
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Personal Service	952,906
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Expense and Equipment	480,576
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From Federal Funds	1,433,482
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Personal Service	213,291
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Expense and Equipment	51,204
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From Health Initiatives Fund	264,495
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Personal Service	93,410
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Expense and Equipment	52,372
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From Mental Health Earnings Fund	145,782
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Total (Not to exceed 59.72 F.T.E.)	\$3,089,704
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SECTION 10.110.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding prevention and education services

Personal Service

From General Revenue Fund	\$7,485
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For prevention and education services	6,231,462
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Personal Service	237,041
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Expense and Equipment	741,149
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From Federal Funds	7,209,652
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For prevention and education services

From Healthy Families Trust Fund-Tobacco Prevention Account	300,000
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For tobacco retailer education

Provided that no person under the age of eighteen shall be used as either an employee or a volunteer for the purposes of enforcement of tobacco laws

Personal Service	229,806
Expense and Equipment	103,622
From Federal Funds	333,428

For the purpose of funding the Kids Beat Program

Expense and Equipment	
From Federal Funds	119,000

For a state incentive program and a community high-risk youth program

Personal Service	183,628
Expense and Equipment	3,084,029
From Federal Funds	3,267,657

For Community 2000 Team programs

From General Revenue Fund	29,997
From Federal Funds	2,059,693

For school-based alcohol and drug abuse prevention programs

From General Revenue Fund	435,540
From Federal Funds	752,185
Total (Not to exceed 16.20 F.T.E.)	\$14,514,637

SECTION 10.115.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the treatment of alcohol and drug abuse

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation . .	\$3,108,772
For treatment of alcohol and drug abuse	20,783,661
From General Revenue Fund	23,892,433

For system enhancement of youth services

Personal Service	16,507
Expense and Equipment	731,802
From Federal Funds	748,309

For treatment of alcohol and drug abuse 45,360,119E

Personal Service	694,132
Expense and Equipment	472,770
From Federal Funds	46,527,021

For treatment of drug and alcohol abuse with the Access to Recovery Grant, provided that unused Personal Service may be expended for treatment

services	13,324,905
Personal Service	267,954
Expense and Equipment	1,213,344
From Federal Funds	14,806,203

For treatment of alcohol and drug abuse

From Healthy Families Trust Fund-Health Care Account	2,077,681
From Health Initiatives Fund	5,585,388
From Mental Health Trust Fund	685,000
Total (Not to exceed 48.13 F.T.E.)	\$94,322,035

SECTION 10.120.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding treatment of compulsive gambling	\$412,798
Personal Service	36,196
Expense and Equipment	5,194
From Compulsive Gamblers Fund (Not to exceed 1.00 F.T.E.)	<u>\$454,188</u>

SECTION 10.125. — To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the Substance Abuse Traffic Offender Program

From Federal Funds	\$407,458
From Mental Health Earnings Fund	<u>3,570,018E</u>
Total	<u>\$3,977,476</u>

SECTION 10.205. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding division administration

 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$987,955
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Personal Service	487,114
Expense and Equipment	<u>174,311</u>
From Federal Funds	<u>661,425</u>

For suicide prevention initiatives

Expense and Equipment

From Federal Funds	<u>150,000</u>
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Total (Not to exceed 29.58 F.T.E.)	<u>\$1,799,380</u>
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SECTION 10.210. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding adult community programs

 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$1,006,583
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Personal Service	195,769
Expense and Equipment	<u>1,713,133</u>
From Federal Funds	<u>1,908,902</u>

For the purpose of funding adult community programs, provided that up to ten
percent (10%) of this appropriation may be used for services for youth

From General Revenue Fund	73,945,403
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From Federal Funds	<u>76,334,082E</u>
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For adult community programs

From Health Initiatives Fund	<u>20,624</u>
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Total (Not to exceed 10.46 F.T.E.)	<u>\$153,215,594</u>
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SECTION 10.215. — To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of reimbursing attorneys, physicians, and counties for fees

 in involuntary civil commitment procedures \$950,000E |

For distribution through the Office of Administration to counties pursuant

 to Section 56.700, RSMo 132,550 |

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From General Revenue Fund \$1,082,550

SECTION 10.220.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding programs for the homeless mentally ill

From General Revenue Fund \$851,392

For programs for the homeless mentally ill 4,474,144

Expense and Equipment 118,400

From Federal Funds 4,592,544

Total \$5,443,936

SECTION 10.225.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding forensic support services

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 17.39 F.T.E.) \$735,829

SECTION 10.230.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding youth community programs

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$731,696

Personal Service 271,685

Expense and Equipment 1,321,641

From Federal Funds 1,593,326

For the purpose of funding youth community programs, provided that up to ten
percent (10%) of this appropriation may be used for services for adults

From General Revenue Fund 21,006,784

From Federal Funds 22,771,430E

For youth community programs

From Health Initiatives Fund 98,888

Total (Not to exceed 11.31 F.T.E.) \$46,202,124

SECTION 10.235.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding services for children who are clients of the

Department of Social Services

Personal Service \$637,522

Expense and Equipment 100,200

From Mental Health Interagency Payments Fund (Not to exceed 18.00 F.T.E.) . . \$737,722

SECTION 10.240.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding fuel and utility expenses at state facilities operated by
the Division of Comprehensive Psychiatric Services, provided that up to three
percent (3%) of this appropriation may be used for facilities operated by the
Division of Mental Retardation and Developmental Disabilities

Expense and Equipment

From General Revenue Fund \$4,726,109

SECTION 10.245.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purchase and administration of new medication therapies

Expense and Equipment

From General Revenue Fund \$9,080,488

From Federal Funds 916,243

Total \$9,996,731

SECTION 10.250.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding costs for forensic clients resulting from loss of
benefits under provisions of the Social Security Domestic Employment
Reform Act of 1994

Expense and Equipment

From General Revenue Fund \$500,000

SECTION 10.255.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Fulton State Hospital

Personal Service, and/or Expense and Equipment, and/or purchase of
community services, provided that not more than ten percent (10%)
flexibility is allowed between each appropriation

From General Revenue Fund \$43,262,854

For the provision of support services to other agencies

Expense and Equipment

From Mental Health Interagency Payments Fund 425,000

Total (Not to exceed 1,273.84 F.T.E.) \$43,687,854

SECTION 10.260.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Northwest Missouri Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$11,472,219

Personal Service

From Federal Funds 458,788

For psychiatric services

From Mental Health Trust Fund 405,640

Total (Not to exceed 346.92 F.T.E.) \$12,336,647

SECTION 10.265.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding St. Louis Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$19,055,062

Personal Service

From Federal Funds 185,119

Total (Not to exceed 569.30 F.T.E.) \$19,240,181

SECTION 10.267.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Southwest Missouri Psychiatric Rehabilitation Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 76.15 F.T.E.) \$2,763,988

SECTION 10.270.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Hawthorn Children's Psychiatric Hospital
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$6,702,761

Personal Service	1,330,749
Expense and Equipment	78,684
From Federal Funds	1,409,433
Total (Not to exceed 237.52 F.T.E.)	\$8,112,194

SECTION 10.272.— To the Department of Mental Health

For the purpose of funding Cottonwood Residential Treatment Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,517,880

Personal Service	
From Federal Funds	867,229
Total (Not to exceed 83.75 F.T.E.)	\$2,385,109

SECTION 10.275.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Metropolitan St. Louis Psychiatric Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$14,129,809

Personal Service	
From Federal Funds	169,506
Total (Not to exceed 366.13 F.T.E.)	\$14,299,315

SECTION 10.280.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Mid-Missouri Mental Health Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$7,726,945

Personal Service	
From Federal Funds	300,548

For services for children and youth
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund 1,828,329
 Total (Not to exceed 234.20 F.T.E.) \$9,855,822

SECTION 10.285.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Southeast Missouri Mental Health Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 518.22 F.T.E.) \$17,095,835

SECTION 10.290.— To the Board of Public Buildings
 For the Department of Mental Health
 For operation and maintenance of the Southeast Missouri Mental Health Center
 Expense and Equipment
 From General Revenue Fund \$129,322

SECTION 10.295.— To the Department of Mental Health
 For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Western Missouri Mental Health Center for
 lease/purchase payments and related expenses, operation of the current
 facility, and any other expenses related to replacement of the facility
 Personal Service, and/or Expense and Equipment, and/or purchase of
 community services, provided that not more than twenty percent (20%)
 flexibility is allowed between each appropriation
 From General Revenue Fund \$18,253,426

For the Western Missouri Mental Health Center and/or contracting for children's
 services in the Northwest Region
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund 1,001,948

Personal Service	324,635
Expense and Equipment	37,891
From Federal Funds	<u>362,526</u>
Total (Not to exceed 535.47 F.T.E.)	\$19,617,900

SECTION 10.300.— To the Department of Mental Health
 For the purpose of funding the Missouri Sexual Offender Treatment Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 189.08 F.T.E.) \$7,052,231

SECTION 10.405.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding division administration
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$991,590

Personal Service	52,122
Expense and Equipment	13,695
From Federal Funds	<u>65,817</u>
Total (Not to exceed 18.23 F.T.E.)	\$1,057,407

SECTION 10.410.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 Provide that residential services for non-Medicaid eligibles shall not be

reduced below the prior year expenditures as long as the person is evaluated to need the services	
For the purpose of funding programs and in-home family directed services for persons with autism and their families. \$200,000 shall be contracted to an outside provider to supply community based autism research and services in Southeast Missouri concentrating on work force transition skills, independent living skills, and maximization of giftedness within the autistic population	
From General Revenue Fund	\$77,129,382
From Federal Funds	165,515,138E
From General Revenue Reimbursements Fund	4,544,329
For consumer and family directed supports/in-home services/choices for families	
From General Revenue Fund	16,736,118
For the purpose of funding programs and in-home family directed services for persons with autism and their families	
From General Revenue Fund	3,200,659
For services for children in the custody of the Department of Social Services	
From Mental Health Interagency Payments Fund	2,049,857
For SB 40 Board tax funds to be used as match for Medicaid initiatives for clients of the Division	
From Mental Health Trust Fund	5,852,732E
Total	\$275,028,215

SECTION 10.415.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding community support staff

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$2,360,811
Personal Service	9,799,936
Expense and Equipment	1,224,901
Purchase of Community Services	20,448,660E
From Federal Funds	31,473,497
Total (Not to exceed 293.56 F.T.E.)	\$33,834,308

SECTION 10.420.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding developmental disabilities services

Personal Service	\$337,617
Expense and Equipment	1,187,593
From Federal Funds (Not to exceed 7.98 F.T.E.)	\$1,525,210

SECTION 10.425.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Albany Regional Center

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 36.19 F.T.E.)	\$1,393,184

SECTION 10.430.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Central Missouri Regional Center
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 45.38 F.T.E.) \$1,522,945

SECTION 10.435.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Hannibal Regional Center
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 45.23 F.T.E.) \$1,844,856

SECTION 10.440.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Joplin Regional Center
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 48.51 F.T.E.) \$1,925,670

SECTION 10.445.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Kansas City Regional Center
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund \$2,545,786

Expense and Equipment
From Federal Funds 5,595
Total (Not to exceed 65.30 F.T.E.) \$2,551,381

SECTION 10.450.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Kirksville Regional Center
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 31.55 F.T.E.) \$1,265,398

SECTION 10.455.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Poplar Bluff Regional Center
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 34.73 F.T.E.) \$1,396,396

SECTION 10.460.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Rolla Regional Center
Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 46.88 F.T.E.) \$1,685,722

SECTION 10.465.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding the Sikeston Regional Center
Personal Service and/or Expense and Equipment, provided that not more

than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,433,016

Expense and Equipment
 From Federal Funds 5,595
 Total (Not to exceed 38.04 F.T.E.) \$1,438,611

SECTION 10.470.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Springfield Regional Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 52.90 F.T.E.) \$2,021,003

SECTION 10.475.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the St. Louis Regional Center
 Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$4,281,087

Expense and Equipment
 From Federal Funds 11,190
 Total (Not to exceed 121.07 F.T.E.) \$4,292,277

SECTION 10.480.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding fuel and utility expenses at state facilities operated
 by the Division of Mental Retardation- Developmental Disabilities, provided
 that up to three percent (3%) of this appropriation may be used for facilities
 operated by the Division of Comprehensive Psychiatric Services
 Expense and Equipment
 From General Revenue Fund \$3,015,586

SECTION 10.485.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding Bellefontaine Habilitation Center
 Personal Service, Expense and Equipment, and/or Purchase of Community
 Services, provided that not more than fifteen percent (15%) flexibility is
 allowed between each appropriation
 From General Revenue Fund \$23,345,390
 From Federal Funds 1,875,856
 Total (Not to exceed 919.79 F.T.E.) \$25,221,246

SECTION 10.490.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding Higginsville Habilitation Center
 Personal Service, Expense and Equipment, and/or Purchase of Community
 Services, provided that not more than fifteen percent (15%) flexibility is
 allowed between each appropriation
 From General Revenue Fund \$9,519,237
 From Federal Funds 270,746

For Northwest Community Services
 Personal Service, Expense and Equipment, and/or Purchase of Community

Services, provided that not more than fifteen percent (15%) flexibility is allowed between each appropriation	
From General Revenue Fund	2,465,000
From Federal Funds	729,860
Total (Not to exceed 491.01 F.T.E.)	\$12,984,843

SECTION 10.495.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Marshall Habilitation Center

Personal Service, Expense and Equipment, and/or Purchase of Community

Services, provided that not more than fifteen percent (15%) flexibility is allowed between each appropriation

From General Revenue Fund	\$21,799,233
From Federal Funds	2,096,307
Total (Not to exceed 903.90 F.T.E.)	\$23,895,540

SECTION 10.500.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Nevada Habilitation Center

Personal Service, Expense and Equipment, and/or Purchase of Community

Services, provided that not more than fifteen percent (15%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 324.95 F.T.E.)	\$10,088,277
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SECTION 10.505.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding St. Louis Developmental Disabilities

Treatment Center

Personal Service, Expense and Equipment, and/or Purchase of Community

Services, provided that not more than fifteen percent (15%) flexibility is allowed between each appropriation

From General Revenue Fund	\$18,884,479
From Federal Funds	1,388,879
Total (Not to exceed 755.26 F.T.E.)	\$20,273,358

SECTION 10.510.— To the Board of Public Buildings

For the Department of Mental Health

For the operation and maintenance of St. Louis Developmental Disabilities

Treatment Center improvements

Expense and Equipment

From General Revenue Fund	\$84,861
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SECTION 10.515.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Southeast Missouri Residential Services

Personal Service, Expense and Equipment, and/or Purchase of Community

Services, provided that not more than fifteen percent (15%) flexibility is allowed between each appropriation

From General Revenue Fund	\$6,255,305
From Federal Funds	116,437
Total (Not to exceed 230.74 F.T.E.)	\$6,371,742

Section 10.600. To the Department of Health and Senior Services

For the Office of the Director

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,642,185

Personal Service 2,071,507
 Expense and Equipment 767,029
 From Federal Funds 2,838,536

For the Office of Minority Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund 803,333

Personal Service 65,848
 Expense and Equipment 112,409
 From Federal Funds 178,257

For Minority Health and Aging

Expense and Equipment and the Purchase of Services
 From General Revenue Fund 165,707
 From Federal Funds 106,904
 Total (Not to exceed 91.10 F.T.E.) \$5,734,922

SECTION 10.605.— To the Department of Health and Senior Services

For the Office of Director

For the purpose of funding the State Public Health Laboratory

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$3,428,530

Personal Service 1,009,967
 Expense and Equipment 1,955,117
 From Federal Funds 2,965,084

Personal Service 750,899
 Expense and Equipment 1,479,300
 From Missouri Public Health Services Fund 2,230,199
 Total (Not to exceed 104.47 F.T.E.) \$8,623,813

SECTION 10.610.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund \$1,080,847

Personal Service 2,178,467
 Expense and Equipment 3,969,883
 From Federal Funds 6,148,350

Expense and Equipment
 From Nursing Facility Quality of Care Fund 9,723

Personal Service 120,447

Expense and Equipment	419,280
From Missouri Public Health Services Fund	539,727

Expense and Equipment	
From Health Access Incentive Fund	7,000
From Department of Health Document Services Fund	225,000
From Workers' Compensation Fund	8,000
Total (Not to exceed 86.25 F.T.E.)	\$8,018,647

SECTION 10.615.— There is transferred out of the State Treasury from the Health Initiatives Fund to the Health Access Incentive Fund

From Health Initiatives Fund	\$3,241,003
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SECTION 10.620.— To the Department of Health and Senior Services
For the Division of Administration
For the purpose of funding the payment of refunds set off against debts in accordance with Section 143.786, RSMo

From Debt Offset Escrow Fund	\$50,000E
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SECTION 10.625.— To the Department of Health and Senior Services
For the Office of Director
For the purpose of receiving and expending federal funds and donations provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they will be expended, in writing, prior to the expenditure of said funds

From Federal Funds	\$5,720,002
From Department of Health Donated Fund	2,496,604
Total	\$8,216,606

SECTION 10.630.— To the Department of Health and Senior Services
For the purpose of funding the Center for Health Information Management and Evaluation
For the purpose of funding program operations and support
Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$2,118,804
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Personal Service	3,420,507
Expense and Equipment	5,552,528
From Federal Funds	8,973,035

Expense and Equipment	
From Missouri Public Health Services Fund	50,000

Personal Service	326,412
Expense and Equipment	365,000
From Department of Health Document Services Fund	691,412

Personal Service	117,763
Expense and Equipment	18,000
From Workers' Compensation Fund	135,763

Personal Service	161,915
Expense and Equipment	481,059
From Department of Health Donated Fund	642,974

For the purpose of paying the fees of local registrars of vital records in
accordance with Section 193.305, RSMo
From General Revenue Fund 155,000
Total (Not to exceed 132.64 F.T.E.) \$12,766,988

SECTION 10.635.— To the Department of Health and Senior Services

For the Center for Local Public Health Services

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$389,705

Personal Service 90,961
Expense and Equipment 10,692
From Federal Funds 101,653

Personal Service 92,961
Expense and Equipment 162,097
From Department of Health Donated Fund 255,058
Total (Not to exceed 13.00 F.T.E.) \$746,416

SECTION 10.640.— To the Department of Health and Senior Services

For the Center for Local Public Health Services

For the purpose of funding core public health functions and related expenses

From General Revenue Fund \$9,027,772

SECTION 10.645.— To the Department of Health and Senior Services

For the Center for Emergency Response and Terrorism

Personal Service \$3,981,345
Expense and Equipment and Program Distribution 26,080,567
From Federal Funds (Not to exceed 92.00 F.T.E.) \$30,061,912

SECTION 10.650.— To the Department of Health and Senior Services

For the Division of Environmental Health and Communicable Disease Prevention

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation
and that at least \$100,000 shall be used for the diagnosis and treatment of
tuberculosis

From General Revenue Fund \$4,101,503

Personal Service 4,835,604
Expense and Equipment 1,564,810
From Federal Funds 6,400,414

Personal Service 178,077
Expense and Equipment 70,532
From Hazardous Waste Remedial Fund 248,609

Personal Service 199,490
Expense and Equipment 85,000
From Missouri Public Health Services Fund 284,490
Total (Not to exceed 209.60 F.T.E.) \$11,035,016

SECTION 10.655.— To the Department of Health and Senior Services

For the Division of Environmental Health and Communicable Disease Prevention	
For the purpose of funding environmental and communicable disease programs	
Expense and Equipment	
From General Revenue Fund	\$1,095,832
From Federal Funds	12,711,930
For the purpose of funding the Lead Abatement Loan Program	
From Missouri Lead Abatement Loan Fund	276,000
For the purpose of funding medications	
From General Revenue Fund	2,120,896
From Federal Funds	11,213,055
Total	<u>\$27,417,713</u>

SECTION 10.660.— To the Department of Health and Senior Services

For the Division of Community Health

For the purpose of funding program operations and support

 Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund

\$3,234,815

 Personal Service

9,617,539

 Expense and Equipment

1,736,543

From Federal Funds

11,354,082

 Personal Service

From Health Initiatives Fund

41,317

From Health Access Initiatives Fund

85,220

 Personal Service

65,735

 Expense and Equipment

22,500

From Professional and Practical Nursing Student Loan and Nurse Loan

 Repayment Fund

88,235

 Personal Service

104,272

 Expense and Equipment

91,010

From Organ Donation Fund

195,282

Total (Not to exceed 345.57 F.T.E.)

\$14,998,951

SECTION 10.665.— To the Department of Health and Senior Services

For the Division of Community Health Services

For the purpose of funding community health programs

From General Revenue Fund

\$5,646,699

From Federal Funds

24,678,116

From Health Initiatives Fund

5,366,564

From Organ Donation Fund

164,000

From Smith Memorial Endowment Fund

35,000

From Blindness Education, Screening, and Treatment Fund

250,000

From Crippled Children's Services Fund

275,000

Total

\$36,415,379

SECTION 10.670.— To the Department of Health and Senior Services

For Division of Community Health

For the purpose of funding the Primary Care Resource Initiative Program (PRIMO)

From Health Access Incentive Fund	\$3,027,000
From Department of Health Donated Fund	850,000

For the purpose of funding the Financial Aid to Medical Students and Medical
School Loan Repayment Programs in accordance with Chapter 191, RSMo

From Federal Funds	214,446
From Medical School Loan Repayment Fund	50,000

For the purpose of funding the Nurse Loan and Nurse Loan Repayment Programs
in accordance with Chapter 335, RSMo

From Federal Funds	60,000
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund	500,000
Total	\$4,701,446

SECTION 10.675.— To the Department of Health and Senior Services
For the Division of Community Health

For the purpose of funding Women, Infants and Children (WIC) Supplemental
Nutrition Program

From General Revenue Fund	\$54,126
From Federal Funds	97,470,273
From Department of Health Donated Fund	145,714

For the purpose of funding the Child and Adult Care Food Program

From Federal Funds	39,256,964E
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For the purpose of funding the Summer Food Service Program

From Federal Funds	7,163,879
Total	\$144,090,956

SECTION 10.677.— To the Department of Health and Senior Services
For the Division of Community Health

For the purpose of funding alternatives to abortion services for women at or below 200% of Federal Poverty Level, consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing, utilities; educational services; food, clothing and supplies relating to pregnancy, newborn care and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provisions and delivery of such services shall be dependent on client needs and not otherwise prioritized by the department. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any family planning services. None of these funds shall be expended to perform or induce, assisting the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions. Prior to January 15, 2005, the department shall prepare an estimate of the Title V funds expected to be unexpended at the end of the fiscal year. The amounts estimated to be unexpended at the end of the fiscal year shall be made available for purposes set forth in this section

From General Revenue Fund	\$570,000
From Federal Funds	760,000
Total	<u>\$1,330,000</u>

SECTION 10.680.— To the Department of Health and Senior Services

For the Division of Senior Services and Regulation

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$19,333,781

Personal Service 18,883,022

Expense and Equipment 2,646,613

From Federal Funds 21,529,635

Personal Service 1,113,403

Expense and Equipment 2,266,726

From Nursing Facility Quality of Care Fund 3,380,129

Personal Service 65,412

Expense and Equipment 13,650

From Health Access Incentive Fund 79,062

Personal Service 54,302

Expense and Equipment 18,200

From Mammography Fund 72,502

Personal Service 187,418

Expense and Equipment 81,840

From Early Childhood Development, Education and Care Fund 269,258

Total (Not to exceed 1,048.60 F.T.E.) \$44,664,367**SECTION 10.685.**— To the Department of Health and Senior Services

For the Division of Senior Services and Regulation

For the purpose of funding activities to improve the quality of childcare, increase the
availability of early childhood development programs, before- and after-school
care, in-home services for families with newborn children, and for general
administration of the program in accordance with Section 313.835, RSMo

From Federal Funds \$1,403,675

From Early Childhood Development, Education and Care Fund 728,740Total \$2,132,415**SECTION 10.690.**— To the Department of Health and Senior Services

For the Division of Senior Services and Regulation

For the purpose of funding Home and Community Services programs

Expense and Equipment

From General Revenue Fund \$14,678,146

From Federal Funds 1,667,028

From Division of Aging Donations Fund 50,000Total \$16,395,174**SECTION 10.695.**— To the Department of Health and Senior Services

For the Division of Senior Services and Regulation

For the purpose of funding Home and Community Services grants

From General Revenue Fund \$9,488,614

From Federal Funds	35,316,384E
From Division of Aging Elderly Home Delivered Meals Trust Fund	430,000
Total	<u>\$45,234,998</u>

SECTION 10.700.— To the Department of Health and Senior Services

For the Division of Senior Services and Regulation

For distributions to Area Agencies on Aging pursuant to the Older Americans
Act and related programsFrom General Revenue Fund \$1,866,115 |**SECTION 10.705.**— To the Department of Health and Senior Services

For the Commission for the Missouri Senior Rx Program

For the Missouri Senior Rx Program	\$22,779,247
Personal Service	662,112
Expense and Equipment	2,745,024

If the enrollment fee collections exceed the originally projected enrollment
revenue, the commission shall be authorized to spend from such collections
to cover the cost of third party administration

Expense and Equipment	1,500,000
From the Missouri Senior Rx Fund (Not to exceed 17.00 F.T.E.)	<u>\$27,686,383</u>

SECTION 10.710.— There is transferred out of the State Treasury from theHealthy Families Trust Fund-Senior Catastrophic Prescription Account to
the Missouri Senior Rx FundFrom Healthy Families Trust Fund-Senior Catastrophic Prescription Drug
Account \$16,856,817 |**SECTION 10.715.**— To the Department of Health and Senior Services

For the Missouri Health Facilities Review Committee

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriationFrom General Revenue Fund (Not to exceed 3.50 F.T.E.) \$193,179 |**DEPARTMENT OF MENTAL HEALTH TOTAL**

General Revenue Fund	\$521,575,544
Federal Funds	415,464,229
Other Funds	36,038,216
Total	<u>\$973,077,989</u>

DEPARTMENT OF HEALTH TOTAL

General Revenue Fund	\$81,195,589
Federal Funds	328,293,614
Other Funds	41,040,399
Total	<u>\$450,529,602</u>

Approved June 16, 2004

HB 1011 [CCS SCS HS HCS HB 1011]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF SOCIAL SERVICES.

AN ACT to appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005 as follows:

SECTION 11.005.— To the Department of Social Services

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation . . .	\$484,701
Annual salary adjustment in accordance with Section 105.005, RSMo . . .	1,068
From General Revenue Fund	485,769

Personal Service	12,337
Annual salary adjustment in accordance with Section 105.005, RSMo	108
Expense and Equipment	1,500
From Federal Funds	13,945

Personal Service	42,940
Annual salary adjustment in accordance with Section 105.005, RSMo	24
Expense and Equipment	17,300
From Child Support Enforcement Collections Fund	60,264
Total (Not to exceed 9.00 F.T.E.)	\$559,978

SECTION 11.010.— To the Department of Social Services

For the Office of the Director

For the purpose of receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the use of said funds

From Federal and Other Funds	\$12,124,960
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SECTION 11.015.— To the Department of Social Services

For Administrative Services

For the Division of General Services

For the purpose of funding operating maintenance and repair

From Federal Funds	\$10,138
From Facilities Maintenance Reserve Fund	30,708

For the Division of Youth Services

For the purpose of funding operating maintenance and repair

From Federal Funds	138,243
From Facilities Maintenance Reserve Fund	78,794
Total	<u>\$257,883</u>

SECTION 11.020.— To the Department of Social Services

For the Office of Director

For the Human Resources Center

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$374,101
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Personal Service	190,145
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Expense and Equipment	41,089
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From Federal Funds	<u>231,234</u>
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Total (Not to exceed 15.52 F.T.E.)	<u>\$605,335</u>
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SECTION 11.025.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$1,623,396
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Personal Service	417,300
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Expense and Equipment	116,518
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From Federal Funds	<u>533,818</u>
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Total (Not to exceed 61.17 F.T.E.)	<u>\$2,157,214</u>
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SECTION 11.030.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the payment of fees to contractors who engage in revenue maximization
projects on behalf of the Department of Social Services

From Federal Funds	\$1,000,000E
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SECTION 11.035.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the purpose of funding the receipt and disbursement of refunds and incorrectly
deposited receipts to allow the over-collection of accounts receivables to be
paid back to the recipient

From Federal and Other Funds	\$2,500,000E
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SECTION 11.040.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the purpose of funding payments to counties toward the care and maintenance
of each delinquent or dependent child as provided in Chapter 211.156, RSMo

From General Revenue Fund	\$3,192,000
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SECTION 11.045.— To the Department of Social Services

For the Information Services and Technology Division

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$3,999,639
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Personal Service	4,305,264
Expense and Equipment	23,865,919
From Federal Funds	<u>28,171,183</u>

Personal Service	7,382
Expense and Equipment	43,271
From Third Party Liability Collections Fund	<u>50,653</u>

Personal Service	240,789
Expense and Equipment	2,779,477
From Child Support Enforcement Collections Fund	<u>3,020,266</u>

Personal Service	37,029
Expense and Equipment	403,289
From Administrative Trust Fund	<u>440,318</u>

Expense and Equipment	
From Education Improvement Fund	<u>127,238</u>
Total (Not to exceed 162.66 F.T.E.)	<u>\$35,809,297</u>

SECTION 11.050.— To the Department of Social Services

For the Family Support Division

For the purpose of funding field and line computers

Expense and Equipment	
From General Revenue Fund	\$1,058,177
From Federal Funds	<u>581,201</u>

For the purpose of funding field and line training

Expense and Equipment	
From General Revenue Fund	237,500
From Federal Funds	<u>131,840</u>
Total	<u>\$2,008,718</u>

SECTION 11.055.— To the Department of Social Services

For Administrative Services

For the purpose of funding the Division of General Services

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	<u>\$1,901,595</u>

Personal Service	256,072
Expense and Equipment	83,672
From Federal Funds	<u>339,744</u>

Personal Service	
From Child Support Enforcement Collections Fund	<u>99,227</u>

For the purpose of funding the centralized inventory system

Expense and Equipment	
From Administrative Trust Fund	<u>5,750,000</u>
Total (Not to exceed 72.61 F.T.E.)	<u>\$8,090,566</u>

SECTION 11.060.— To the Department of Social Services

For Administrative Services

For the purpose of funding the Division of Legal Services

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$1,990,109
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Personal Service	2,889,010
Expense and Equipment	698,155
From Federal Funds	3,587,165

Personal Service	504,354
Expense and Equipment	318,163
From Third Party Liability Collections Fund	822,517

Personal Service	
From Child Support Enforcement Collections Fund	151,453
Total (Not to exceed 145.39 F.T.E.)	\$6,551,244

SECTION 11.100.— To the Department of Social Services

For the Family Support Division

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$1,206,024
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Personal Service	5,284,293
Expense and Equipment	6,066,998
From Federal Funds	11,351,291

Personal Service	1,355,934
Expense and Equipment	134,847
From Child Support Enforcement Collections Fund	1,490,781

Expense and Equipment	
From Third Party Liability Collections Fund	134,577
From Administrative Trust Fund	39,690
From Blind Pension Fund	62,417
Total (Not to exceed 198.17 F.T.E.)	\$14,284,780

SECTION 11.105.— To the Department of Social Services

For the Family Support Division

For the income maintenance field staff and operations

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$27,744,519
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Personal Service	60,740,028
Expense and Equipment	4,093,457
From Federal Funds	64,833,485

Personal Service	696,475
Expense and Equipment	28,749
From Health Initiatives Fund	725,224
Total (Not to exceed 2,967.99 F.T.E.)	\$93,303,228

SECTION 11.110.— To the Department of Social Services

For the Family Support Division

For the income maintenance staff training

From General Revenue Fund	\$497,849
From Federal Funds	<u>164,591</u>
Total	\$662,440

SECTION 11.115.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the electronic benefit transfers (EBT) system to
reduce fraud, waste, and abuse

Expense and Equipment

From General Revenue Fund	\$3,749,415
From Federal Funds	<u>3,191,481</u>
Total	\$6,940,896

SECTION 11.120.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the receipt of funds from the Polk County and Bolivar
Charitable Trust for the exclusive benefit and use of the Polk County Office

From Charitable Trust Account	\$10,000
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SECTION 11.125.— To the Department of Social Services

For the Family Support Division

For the purpose of funding contractor, hardware, and other costs associated
with planning, development, and implementation of a Family Assistance
Management Information System (FAMIS)

From General Revenue Fund	\$2,263,303
From Federal Funds	<u>3,789,073</u>
Total	\$6,052,376

SECTION 11.130.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Community Partnerships
Personal Service

From General Revenue Fund	\$112,912
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For grants and contracts to Community Partnerships and other community
initiatives and related expenses

From General Revenue Fund	970,000
From Federal Funds	<u>7,483,799</u>

For Missouri Mentoring Partnership

From General Revenue Fund	674,844
From Federal Funds	<u>778,143</u>
Total (Not to exceed 4.38 F.T.E.)	\$10,019,698

SECTION 11.135.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Food Stamp work training-related expenses

From General Revenue Fund	\$67,831
From Federal Funds	<u>5,300,000</u>
Total	\$5,367,831

SECTION 11.140.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the payment of Temporary Assistance for Needy
Families benefits

From General Revenue Fund	\$17,287,706
From Federal Funds	<u>123,045,760E</u>
Total	\$140,333,466

SECTION 11.145.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding Grandparent Foster Care payments
 From General Revenue Fund \$2,330,978

SECTION 11.150.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding supplemental payments to aged or disabled persons
 From General Revenue Fund \$165,000

SECTION 11.155.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding nursing care payments to aged, blind, or disabled persons, provided a portion of this appropriation may be transferred to the Department of Mental Health for persons removed from the Supplemental Nursing Care Program and placed in the Supported Housing Program, resulting in a reduction of Department of Mental Health supplemental nursing home clients and for personal funds to recipients of Supplemental Nursing Care payments as required by Section 208.030, RSMo
 From General Revenue Fund \$26,464,815

SECTION 11.160.— To the Department of Social Services
 For the Family Support Division
 For the purpose of providing Supplemental Security Income program payment reimbursements for those eligible for General Relief cash assistance prior to July 31, 2003. Payments from this section shall not be considered General Relief Cash Assistance
 From Federal Funds \$4,000,000

SECTION 11.165.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding Blind Pension and supplemental payments to blind persons
 From Blind Pension Fund \$21,505,269

SECTION 11.170.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding benefits and services as provided by the Indochina Migration and Refugee Assistance Act of 1975 as amended
 From Federal Funds \$3,812,553

SECTION 11.175.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding community services programs provided by Community Action Agencies, including programs to assist the homeless, under the provisions of the Community Services Block Grant
 From Federal Funds \$19,144,171

SECTION 11.180.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding grants for local initiatives to assist the homeless

From Federal Funds \$500,000

SECTION 11.185.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Emergency Shelter Grant Program

From Federal Funds \$1,340,000

SECTION 11.190.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Surplus Food Distribution Program and the
receipt and disbursement of Donated Commodities Program payments

From Federal Funds \$1,000,000

SECTION 11.195.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Low-Income Home Energy Assistance Program

From Federal Funds (Not to exceed 6.50 F.T.E.) \$40,802,495E

SECTION 11.200.— To the Department of Social Services

For the Family Support Division

For the purpose of funding services and programs to assist victims of domestic
violence

From General Revenue Fund \$4,300,000

From Federal Funds 1,687,653

Total \$5,987,653

SECTION 11.205.— To the Department of Social Services

For the Family Support Division

For the purpose of funding administration of blind services

Personal Service \$2,846,192

Expense and Equipment 843,975

From Federal Funds 3,690,167

Personal Service 841,054

Expense and Equipment 210,637

From Blind Pension Fund 1,051,691

Total (Not to exceed 117.87 F.T.E.) \$4,741,858

SECTION 11.210.— To the Department of Social Services

For the Family Support Division

For the purpose of funding services for the visually impaired

From Federal Funds \$5,085,000

From Blind Pension Fund 1,549,935

From Donated Funds 100,000

Total \$6,734,935

SECTION 11.215.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Child Support Enforcement field staff and operations

Personal Service and/or Expense and Equipment, provided that not more
than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$74,097

Personal Service 22,763,611

Expense and Equipment 5,282,561

From Federal Funds	28,046,172
Personal Service	6,559,839
Expense and Equipment	<u>1,740,309</u>
From Child Support Enforcement Collections Fund	<u>8,300,148</u>
Total (Not to exceed 1,044.61 F.T.E.)	\$36,420,417

SECTION 11.220.— To the Department of Social Services

For the Family Support Division

For the purpose of funding payments to private agencies collecting child support orders and arrearages

From Federal Funds	\$990,000E
From Child Support Enforcement Collections Fund	<u>510,000E</u>
Total	\$1,500,000

SECTION 11.225.— To the Department of Social Services

For the Family Support Division

For the purpose of funding contractual agreements with local governments in certain paternity establishment and child support enforcement cases

From Federal Funds	\$1,270,000
From Child Support Enforcement Collections Fund	<u>653,000</u>
Total	\$1,923,000

SECTION 11.230.— To the Department of Social Services

For the Family Support Division

For the purpose of funding reimbursement to counties and the City of St. Louis providing child support enforcement services

From Federal Funds	\$8,200,000E
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SECTION 11.235.— To the Department of Social Services

For the Family Support Division

For the purpose of funding payment to the federal government for reimbursement of federal Temporary Assistance for Needy Families payments, incentive payments to local governments and other states, refunds of bonds, refunds of support payments or overpayments, and distributions to families

From Federal Funds	\$36,000,000E
From Alternative Care Trust Fund	167,000
From Debt Offset Escrow Fund	<u>9,000,000E</u>
Total	\$45,167,000

SECTION 11.240.— To the Department of Social Services

For the Children's Division

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$966,335
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Personal Service	3,185,638
Expense and Equipment	<u>2,710,991</u>
From Federal Funds	5,896,629

Personal Service	41,480
Expense and Equipment	<u>11,856</u>
From Early Childhood Trust Fund	53,336

Expense and Equipment

From Third Party Liability Collections Fund	163,323
Total (Not to exceed 113.98 F.T.E.)	<u>\$7,079,623</u>

SECTION 11.245.— To the Department of Social Services

For the Children's Division

For the Children's Division field staff and operations

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$26,191,865
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Personal Service	40,261,031
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Expense and Equipment	<u>4,194,785</u>
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From Federal Funds	44,455,816
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Personal Service	61,970
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Expense and Equipment	<u>28,749</u>
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From Health Initiatives Fund	90,719
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For the purpose of enhancing child welfare services. Monies in this section shall be used to expand existing or support new performance-based contracts including prevention, training, and case management and/or to expand staff in local welfare offices to achieve accreditation caseload standards. At least \$3,200,000 shall be used to expand existing or support new performance-based contracts including prevention, training and case management

From General Revenue Fund	6,098,458
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From Federal Funds	<u>3,159,702</u>
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Total (Not to exceed 1,978.60 F.T.E.)	<u>\$79,996,560</u>
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SECTION 11.250.— To the Department of Social Services

For the Children's Division

For Children's Division staff training

From General Revenue Fund	\$1,161,650
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From Federal Funds	<u>384,041</u>
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Total	<u>\$1,545,691</u>
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SECTION 11.255.— To the Department of Social Services

For the Children's Division

For the purpose of funding children's treatment services including, but not limited to, home-based services, day treatment services, preventive services, child care, family reunification services, or intensive in-home services

From General Revenue Fund	\$8,226,191
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From Federal Funds	<u>5,486,047</u>
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For the purpose of funding extensive day treatment services through accredited community based organizations which are licensed by the Department of Mental Health as having an approved "day treatment program". In order for a child to be eligible for this specialized service, such child shall be between the ages of three and six years of age who are: (1) Eligible for Medicaid; and (2) Placed in or at high risk of psychiatric hospitalization, residential care, or foster care placements; and (3) Diagnosed within Axis I as having a mental health related illness as described in the International Classification of Diseases - 9th Revision (ICD-9). The valid ICD-9 diagnosis codes are those within 290-316; and (4) Pre-authorized for services by the Children's Division in order to ensure all criteria are met. The Division of Medical Services shall promulgate such CPT codes in order to identify

"Day Treatment" as a covered service under the Medicaid program. Such service shall be paid at a rate not lower than the rate currently being paid under the program as authorized through the Missouri's Children's Division Treatment Services funds/contracts

From Federal Funds	1,130,000
Total	\$14,842,238

SECTION 11.260.— To the Department of Social Services

For the Children's Division

For the purpose of funding placement costs including Foster Care payments; related services; expenses related to training of foster parents; Residential Treatment placements and therapeutic treatment services; and for the diversion of children from inpatient psychiatric treatment and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund	\$56,727,083
From Federal Funds	53,080,726

For the purpose of enhancing current foster care case management contracts to increase service delivery to children and families. The purpose of these services shall be to help children who are at risk of being removed from their family because of abuse or neglect. Services may also be provided to children and families to expedite reunifications. Services eligible under this provision may include Intensive In-Home Services, Family Reunification Services, and specialized recruitment and training of foster care families. Funding may also be used for limited emergency resources for families

From Federal Funds	5,000,000
Total	\$114,807,809

SECTION 11.265.— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption and Guardianship subsidy payments and related services

From General Revenue Fund	\$42,034,513
From Federal Funds	18,388,686
Total	\$60,423,199

SECTION 11.270.— To the Department of Social Services

For the Children's Division

For the purpose of funding independent living placements and transitional living payment services

From General Revenue Fund	\$1,690,790
From Federal Funds	3,393,228
Total	\$5,084,018

SECTION 11.275.— To the Department of Social Services

For the Children's Division

For the purpose of supplementing appropriations for children's treatment services; alternative care placement services; adoption subsidy services; independent living services; and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund	\$9,670,990
From Federal Funds	9,273,261
Total	\$18,944,251

SECTION 11.280.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding Regional Child Assessment Centers
 From General Revenue Fund \$1,898,952

SECTION 11.285.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding diversion of children from inpatient psychiatric
 treatment and to provide services to reduce the number of children's
 inpatient medical hospitalization days
 From General Revenue Fund \$6,346,361
 From Federal Funds 9,691,373
 Total \$16,037,734

SECTION 11.290.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding residential placement payments to counties for
 children in the custody of juvenile courts
 From Federal Funds \$700,000

SECTION 11.295.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding the Child Abuse and Neglect Prevention Grant
 and Children Justice Act Grant
 From Federal Funds \$1,000,000

SECTION 11.300.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding transactions involving personal funds of children
 in the custody of the Children's Division or the Division of Youth Services
 From Alternative Care Trust Fund \$12,000,000E

SECTION 11.305.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding child care services, the general administration of the
 programs, and to support the Educare Program
 From General Revenue Fund \$59,312,362
 From Federal Funds 106,628,422
 From Early Childhood Development, Education and Care Fund 1,548,152

For the purpose of payments to accredited child care providers pursuant to
 Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund 3,446,898

For the purpose of funding early childhood start-up and expansion grants
 pursuant to Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund 4,136,278

For the purpose of funding early childhood development, education, and care
 programs for low-income families pursuant to Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund 3,446,898

For the purpose of funding certificates to low-income, at-home families pursuant
 to Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund 3,446,898

Total \$181,965,908

SECTION 11.310.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding Central Office and Regional Offices

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$1,728,027

Personal Service	562,755
Expense and Equipment	117,846
From Federal Funds	680,601
Total (Not to exceed 54.83 F.T.E.)	\$2,408,628

SECTION 11.315.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding treatment services, including foster care and contractual payments

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund \$32,995,165

Personal Service	6,912,410
Expense and Equipment	7,073,293
From Federal Funds	13,985,703

Personal Service	2,482,861
Expense and Equipment	2,982,477
From DOSS Educational Improvement Fund	5,465,338

Personal Service	114,906
Expense and Equipment	10,135
From Health Initiatives Fund	125,041

Expense and Equipment	
From Youth Services Product Fund	25,000E
Total (Not to exceed 1,373.81 F.T.E.)	\$52,596,247

SECTION 11.320.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding incentive payments to counties for community-based treatment programs for youth

From General Revenue Fund \$3,767,880

From Gaming Commission Fund 500,000

Total \$4,267,880

SECTION 11.400.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding administrative services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the

federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$4,152,938
Personal Service	5,066,519
Expense and Equipment	3,418,454
From Federal Funds	8,484,973
Personal Service	17,100
Expense and Equipment	5,110
From Pharmacy Rebates Fund	22,210
Personal Service	22,750
Expense and Equipment	4,565
From Pharmacy Reimbursement Allowance Fund	27,315
Personal Service	272,863
Expense and Equipment	31,385
From Health Initiatives Fund	304,248
Personal Service	72,973
Expense and Equipment	10,281
From Nursing Facility Quality of Care Fund	83,254
Personal Service	309,873
Expense and Equipment	492,364
From Third Party Liability Collections Fund	802,237
Total (Not to exceed 258.11 F.T.E.)	\$13,877,175

SECTION 11.405.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding cost saving measures under contract for the pharmacy program administration directed at Medicaid fee- for-service and managed care programs. Provided, however, that policies for prescribing psychotropic medications will not include any new limits to initial access requirements (except dose optimization, or new drug combinations consisting of one or more existing drug entities) for persons with mental illness diagnosis, or other illnesses for which treatment with psychotropic medications are indicated and the drug has been approved by the FDA for at least one indication and is a recognized treatment in one of the standard reference compendia or in substantially accepted peer reviewed medical literature and deemed medically appropriate for a diagnosis. No restrictions to access shall be imposed that preclude availability of any individual atypical antipsychotic monotherapy for the treatment of schizophrenia, bipolar disorder, or psychosis associated with severe depression. The contracted services include, but are not limited to, Prospective Drug Use Review including, but not limited to, clinical edits, step therapy, dose optimization edits, prior authorization edits, early refill edits, maximum allowable quantities, maximum allowable drug pricing, preferred drug list, drug-to-drug interaction edits, drug-disease conflict edits, and drug-gender edits; Disease and Case Management services; and Retrospective Drug Use review including, but not limited to, population based reviews, provider education, provider help desk services, clinical criteria, drug information

services and support, and ad hoc drug utilization reporting. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$2,301,123
From Federal Funds	3,602,788
From Third Party Liability Collections Fund	924,911
Total	<u>\$6,828,822</u>

SECTION 11.410.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding women and minority health care outreach programs.

The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$727,500
From Federal Funds	750,000
Total	<u>\$1,477,500</u>

SECTION 11.415.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding a revenue maximization unit in the Division of Medical Services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

Personal Service	\$83,400
Expense and Equipment	8,286
From Federal Funds	<u>91,686</u>

Personal Service	83,400
Expense and Equipment	8,286
From Federal Reimbursement Allowance Fund	<u>91,686</u>
Total (Not to exceed 4.00 F.T.E.)	<u>\$183,372</u>

SECTION 11.420.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding fees associated with third-party collections and other revenue maximization cost avoidance fees. The single agency

administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From Federal Funds	\$3,000,000
From Third Party Liability Collections Fund	3,000,000
Total	<u>\$6,000,000</u>

SECTION 11.425. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding the operation of the information systems. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$6,065,081
From Federal Funds	17,567,731
Total	<u>\$23,632,812</u>

SECTION 11.430. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding contractor payments associated with managed care eligibility and enrollment of Medicaid recipients. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$88,445
From Federal Funds	1,910,113
Total	<u>\$1,998,558</u>

SECTION 11.435. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding pharmaceutical payments under the Medicaid fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists and for the development of a Comprehensive Chronic Care Risk Management program. Provided, however, that policies for prescribing psychotropic medications will not include any new limits to initial access requirements (except dose optimization, or new drug combinations consisting of one or more existing drug entities) for persons with mental illness diagnosis, or

other illnesses for which treatment with psychotropic medications are indicated and the drug has been approved by the FDA for at least one indication and is a recognized treatment in one of the standard reference compendia or in substantially accepted peer reviewed medical literature and deemed medically appropriate for a diagnosis. No restrictions to access shall be imposed that preclude availability of any individual atypical antipsychotic monotherapy for the treatment of schizophrenia, bipolar disorder, or psychosis associated with severe depression. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$276,303,233
From Federal Funds	710,635,826
From Pharmacy Rebates Fund	96,303,828E
From Third Party Liability Collections Fund	5,860,000
From Intergovernmental Transfer Fund	10,575,694
From Pharmacy Reimbursement Allowance Fund	61,984,630
From Health Initiatives Fund	969,293
From Healthy Families Trust Fund-Health Care Account	1,041,034
Total	\$1,163,673,538

SECTION 11.440.— There is transferred out of the State Treasury from the General Revenue Fund to the Pharmacy Reimbursement Allowance Fund
From General Revenue Fund \$30,000,000E

SECTION 11.445.— There is transferred out of the State Treasury from the Pharmacy Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Pharmacy Reimbursement Allowance Fund
From Pharmacy Reimbursement Allowance Fund \$30,000,000E

SECTION 11.450.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, physician-sponsored services and fees, laboratory and x-ray services, and family planning services under the Medicaid fee-for-service and managed care programs. At least One Million Dollars (\$1,000,000) additional monies will be used to increase emergency room physicians' reimbursements. The Department shall conduct a telemedicine services pilot program with the University of Missouri not to exceed \$50,000 and report the results of the pilot to the appropriations committees of the House and Senate. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability

benefits, or aid to the blind benefits	
From General Revenue Fund	\$133,933,393
From Third Party Liability Collection Fund	1,870,000
From Federal Funds	219,337,609
From Health Initiatives Fund	1,247,544
From Healthy Families Trust Fund-Health Care Account	<u>1,041,034</u>
Total	\$357,429,580

SECTION 11.455.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding dental services under the Medicaid fee-for-service and managed care programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$12,129,091
From Federal Funds	19,976,784
From Health Initiatives Fund	71,162
From Healthy Families Trust Fund-Health Care Account	<u>848,773</u>
Total	\$33,025,810

SECTION 11.460.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding payments to third-party insurers, employers, or policyholders for health insurance. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$36,876,610
From Federal Funds	<u>59,482,678</u>
Total	\$96,359,288

SECTION 11.465.— To the Department of Social Services

For the Division of Medical Services

For funding long-term care services

For the purpose of funding home health, respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, children's waiver services, Program for All-Inclusive Care for the Elderly, and other related services under the Medicaid fee-for-service and managed care programs. Provided that an individual eligible for or receiving nursing home care must be given the opportunity to have those Medicaid dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 13 CSR 15 9.030(5) and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed Medicaid State Plan

Amendment that is administered by the Division of Vocational Rehabilitation in the Department of Elementary and Secondary Education. And further provided that individuals eligible for the Medicaid Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet need as determined by 13 CSR 15 9.030(5); and also be allowed to have their Medicaid funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$115,467,731
From Federal Funds	182,611,388
From Health Initiatives Fund	159,305

For the purpose of funding care in nursing facilities, Program for All-Inclusive Care for the Elderly, or other long-term care services under the Medicaid fee-for-service and managed care programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	99,690,642
From Federal Funds	286,416,373
From Uncompensated Care Fund	58,516,478
From Intergovernmental Transfer Fund	20,000,000
From Nursing Facility Federal Reimbursement Allowance Fund	1,072,284
From Healthy Families Trust Fund-Health Care Account	17,973
From Third Party Liability Collections Fund	2,193,433
Total	\$766,145,607

SECTION 11.470.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding all other non-institutional services including, but not limited to, rehabilitation, optometry services under the Medicaid fee-for-service and managed care programs, audiology, ambulance, non-emergency medical transportation, durable medical equipment, and eyeglasses under the Medicaid fee-for-service and managed care programs. A portion of this funding allows for contracted services related to prior authorization of certain Medicaid services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income

methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$44,783,354
From Federal Funds	72,348,341
From Healthy Families Trust Fund-Health Care Account	831,745
From Health Initiatives Fund	194,881

For the purpose of funding non-emergency medical transportation. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	11,254,770
From Federal Funds	18,371,370
Total	\$147,784,461

SECTION 11.475. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the Medicaid fee-for-service programs or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (22), RSMo. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$186,524,842
From Federal Funds	509,188,030
From Health Initiatives Fund	8,464,118
From Federal Reimbursement Allowance Fund	116,112,906
From Healthy Families Trust Fund-Health Care Account	4,447,110
Total	\$824,737,006

SECTION 11.480. — To the Department of Social Services

For the Division of Medical Services

For the purpose of funding hospital care under the Medicaid fee-for-service and managed care programs and for the development of a Comprehensive Chronic Care Risk Management program. At least One Million Dollars (\$1,000,000) additional monies will be used for uncompensated care as a result of SFY 05 Medicaid reform actions. The Division of Medical

Services may adjust SFY 2005 costs of the uninsured payments to hospitals to reflect the impact on hospitals of the elimination of Medicaid coverage for adults with incomes above 75 percent of the federal poverty level and who were covered through a Section 1931 transfer. The Division of Medical Services shall track payments to out-of-state hospitals by location and by services for adults and by services for children. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$50,565,094
From Federal Funds	377,842,846
From Uncompensated Care Fund	32,483,522
From Third Party Liability Collections Fund	1,170,000
From Federal Reimbursement Allowance Fund	89,438,465
From Health Initiatives Fund	2,797,179
From Intergovernmental Transfer Fund	20,250,000
From Healthy Families Trust Fund-Health Care Account	2,365,987

For Safety Net Payments

From Healthy Families Trust Fund-Health Care Account	30,365,444
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For Graduate Medical Education

From Healthy Families Trust Fund-Health Care Account	10,000,000
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For the purpose of funding a community-based care coordinating program that includes in-home visits and/or phone contact by a nurse care manager or electronic monitor. The purpose of such program shall be to ensure that patients are discharged from hospitals to an appropriate level of care and services and that targeted Medicaid beneficiaries with chronic illnesses and high-risk pregnancies receive care in the most cost-effective setting. Areas of implementation shall include, but not be limited to, Greene County. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the Division of Medical Services' Disease Management Program

From Federal Funds	200,000
From Federal Reimbursement Allowance Fund	200,000

For the purpose of funding hospital care under the Medicaid fee-for-service and managed care programs, and funding costs incurred by hospitals for the staffing of the emergency department with Medicaid enrolled physicians of Level I, II, III Trauma Centers as defined by the Department of Health and Senior Services and Critical Access Hospitals as defined by the Department of Social Services, Division of Medical Services, contingent upon adoption of an offsetting increase in the applicable provider tax

From Federal Funds	30,000,000E
From Federal Reimbursement Allowance Fund	20,000,000E

For the purpose of continuing funding in Southwest Missouri of the pager project designed to assist those Medicaid recipients with a high utilization of

pharmaceuticals in order to treat chronic illness. Additionally, such project will be replicated in metropolitan Kansas City. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the Division of Medical Services' Disease Management Program

From Federal Funds	80,000
From Federal Reimbursement Allowance Fund	80,000
Total	\$667,838,537

SECTION 11.485.— To the Department of Social Services

For the Division of Medical Services

For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs for federal Medicaid funds, utilizing current state and local funding sources as match for services that are not currently matched with federal Medicaid payments

From Federal Funds	\$23,000,000
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SECTION 11.490.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding grants to Federally Qualified Health Centers. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$7,000,000
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SECTION 11.495.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding payments to hospitals under the Federal Reimbursement Allowance Program and for the expenses of the Poison Control Center in order to provide services to all hospitals within the state. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From Federal Funds	\$384,999,999E
From Federal Reimbursement Allowance Fund	1E
Total	\$385,000,000

SECTION 11.500.— To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to health care for uninsured adults by using fee-for-service, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. The single agency administering the

Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From Federal Funds	\$3,875,187
From Federal Reimbursement Allowance Fund	423,516
From Pharmacy Reimbursement Allowance Fund	89,128
From Intergovernmental Transfer Fund	1,088,212

For the purpose of funding health care services provided to uninsured adults through local initiatives for the uninsured. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From Federal and Other Funds	1E
Total	\$5,476,044

SECTION 11.505.— To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to care for uninsured children using fee-for-services, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From Federal Funds	\$81,027,493
From Federal Reimbursement Allowance Fund	8,191,223
From Health Initiatives Fund	5,048,112
From Pharmacy Rebates Fund	225,430
From Pharmacy Reimbursement Allowance Fund	201,394
From Intergovernmental Transfer Fund	16,424,469
From Premium Fund	1,000,000
Total	\$112,118,121

SECTION 11.510.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding uncompensated care payments to the St. Louis

Regional Disproportionate Share Hospital funding authority

From Federal Funds	\$25,000,000E
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SECTION 11.515.— There is transferred out of the State Treasury from the General Revenue Fund to the Federal Reimbursement Allowance Fund
 From General Revenue Fund \$180,000,000E

SECTION 11.520.— There is transferred out of the State Treasury from the Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Federal Reimbursement Allowance Fund
 From Federal Reimbursement Allowance Fund \$180,000,000E

SECTION 11.525.— There is transferred out of the State Treasury from the General Revenue Fund to the Nursing Facility Federal Reimbursement Allowance Fund
 From General Revenue Fund \$120,000,000E

SECTION 11.530.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Nursing Facility Federal Reimbursement Allowance Fund
 From Nursing Facility Federal Reimbursement Allowance Fund \$120,000,000E

SECTION 11.535.— There is transferred out of the State Treasury from the Nursing Facility Federal Reimbursement Allowance Fund to the Nursing Facility Quality of Care Fund
 From Nursing Facility Federal Reimbursement Allowance Fund \$1,500,000

SECTION 11.540.— To the Department of Social Services
 For the Division of Medical Services
 For the purpose of funding Nursing Facility Federal Reimbursement Allowance payments as provided by law. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits
 From Federal Funds \$216,999,999E
 From Nursing Facility Federal Reimbursement Allowance Fund 1E
 Total \$217,000,000

SECTION 11.555.— To the Department of Social Services
 For the Division of Medical Services
 For the purpose of funding medical benefits for recipients of State Medical Programs, including coverage in managed care programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits
 From General Revenue Fund \$37,140,168
 From Health Initiatives Fund 353,437

From Pharmacy Reimbursement Allowance Fund	846,090
Total	\$38,339,695

SECTION 11.560.— To the Department of Social Services

For the Division of Medical Services

For the purpose of supplementing appropriations for any medical service under the Medicaid fee-for-service, managed care, or State Medical programs, including related services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety-five percent of the federal poverty level, and those persons whose income exceeds ninety-five percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From Federal Funds	\$24,107,486E
From Premium Fund	3,837,940
From Third Party Liability Collections Fund	7,571,156
From Uncompensated Care Fund	1E
From Pharmacy Rebates Fund	1E
From Federal Reimbursement Allowance Fund	1E
From Nursing Facility Federal Reimbursement Allowance Fund	181,500

For the purpose of funding Disproportionate Share Hospital maximization transactions

From Federal Funds	52,000,000E
From Intergovernmental Transfer Fund	33,000,000E

For the purpose of funding Upper Payment Limit maximization transactions

From Federal Funds	20,500,000
From Intergovernmental Transfer Fund	13,000,000
Total	\$154,198,085

BILL TOTALS

General Revenue Fund	\$1,386,592,216
Federal Funds	4,357,027,381
Other Funds	482,065,704
Total	\$6,225,685,301

Approved June 16, 2004

HB 1012 [CCS SCS HS HCS HB 1012]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CHIEF EXECUTIVE'S OFFICE AND MANSION, LT. GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEMS, JUDICIARY, OFFICE OF STATE PUBLIC DEFENDER, GENERAL ASSEMBLY,

MISSOURI COMMISSION ON INTERSTATE COOPERATION, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES, AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and contingent expenses of the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Missouri Commission on Interstate Cooperation, the Committee on Legislative Research, various joint committees, for the expenses of the interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2004 and ending June 30, 2005.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2004 and ending June 30, 2005 as follows:

SECTION 12.005. — To the Governor

Personal Service and/or Expense and Equipment	\$1,869,218
Personal Service and/or Expense and Equipment for the Mansion	157,061
From General Revenue Fund (Not to exceed 41.00 F.T.E.)	\$2,026,279

SECTION 12.010. — To the Governor

For expenses incident to emergency duties performed by the National Guard
when ordered out by the Governor
From General Revenue Fund (0 F.T.E.) \$1E

SECTION 12.015. — To the Governor

For Association Dues
From General Revenue Fund \$150,150

SECTION 12.025. — To the Governmental Emergency Fund Committee

For allocation by the committee to state agencies that qualify for emergency
or supplemental funds under the provisions of Section 33.720, RSMo
From General Revenue Fund (0 F.T.E.) \$1E

SECTION 12.030. — To the Lieutenant Governor

Personal Service and/or Expense and Equipment
From General Revenue Fund (Not to exceed 8.50 F.T.E.) \$413,793

SECTION 12.040. — To the Secretary of State

Personal Service and/or Expense and Equipment	
From General Revenue Fund	\$9,238,766
From Federal Funds	757,896
From Secretary of State's Technology Trust Fund Account	3,003,401
From Local Records Preservation Fund	1,314,390

From Secretary of State - Wolfner State Library Fund	14,500
From Investor Education and Protection Fund	289,122
Total (Not to exceed 259.80 F.T.E.)	\$14,618,075

SECTION 12.045.— To the Secretary of State
For the biennial publication of the State's Official Manual
From General Revenue Fund (0 F.T.E.) \$10,000

SECTION 12.050.— To the Secretary of State
For refunds of securities, corporations, uniform commercial code, and miscellaneous
collections of the Secretary of State's Office
From General Revenue Fund (0 F.T.E.) \$50,000E

SECTION 12.055.— To the Secretary of State
For reimbursement to victims of securities fraud and other violations pursuant
to Section 409.407, RSMo
From Investors Restitution Fund (0 F.T.E.) \$55,000E

SECTION 12.060.— To the Secretary of State
For expenses of initiative referendum and constitutional amendments
From General Revenue Fund (0 F.T.E.) \$1,600,000E

SECTION 12.065.— To the Secretary of State
For election costs associated with absentee ballots
From General Revenue Fund (0 F.T.E.) \$50,000

SECTION 12.070.— To the Secretary of State
For costs associated with providing provisional ballots and voter
registration applications
From General Revenue Fund (0 F.T.E.) \$21,395

SECTION 12.075.— To the Secretary of State
For election reform grants and related matching funds
From Election Administration Improvement Fund \$1E
From Federal Funds 27,232,186E
Total (0 F.T.E.) \$27,232,187

SECTION 12.080.— To the Secretary of State
For historical repository grants
From Federal Funds (0 F.T.E.) \$140,002

SECTION 12.085.— To the Secretary of State
For the preservation of nationally significant records at the local level
From Federal Funds (0 F.T.E.) \$66,172

SECTION 12.090.— To the Secretary of State
For local records preservation grants
From Local Records Preservation Fund (0 F.T.E.) \$400,000E

SECTION 12.095.— To the Secretary of State
For preserving legal, historical, and genealogical materials and making them
available to the public, all expenditures
Personal Service and/or Expense and Equipment
From State Document Preservation Fund (Not to exceed 4.00 F.T.E.) \$12,355,219E

SECTION 12.100.— To the Secretary of State

For aid to public libraries

From General Revenue Fund \$4,001,744

SECTION 12.105.— To the Secretary of State

For the Remote Electronic Access for Libraries (REAL) Program

From General Revenue Fund \$2,959,250

SECTION 12.110.— To the Secretary of State

For the Literacy Investment for Tomorrow (LIFT) Program

From General Revenue Fund \$69,450

SECTION 12.115.— To the Secretary of StateFor all allotments, grants, and contributions from the federal government or
from any sources that may be deposited in the State Treasury for the
use of the Missouri State Library

From Federal Funds \$2,750,000E

SECTION 12.120.— To the Secretary of State

For library networking grants

From Library Networking Fund \$450,001E

SECTION 12.150.— To the State Auditor

Personal Service and/or Expense and Equipment

From General Revenue Fund \$6,651,063

From Federal Funds 523,399

From Gaming Commission Fund 82,827

From Conservation Commission Fund 41,620

From Parks Sales Tax Fund 19,483

From Soil and Water Sales Tax Fund 18,787

From Petition Audit Revolving Trust Fund 839,231

Total (Not to exceed 178.27 F.T.E.) \$8,176,410

SECTION 12.155.— To the State Treasurer

Personal Service and/or Expense and Equipment

From General Revenue Fund \$1,729,317

From Central Check Mailing Service Revolving Fund 225,000E

From Treasurer's Information Fund 479,135

From Workers' Compensation - Second Injury Fund 41,155

For Unclaimed Property Division administrative costs including expense and
equipment for auctions, advertising, and promotions

From Abandoned Fund Account 225,000E

For preparation and dissemination of information or publications, or for refunding
overpayments

From Treasurer's Information Fund 25,000

Total (Not to exceed 49.4 F.T.E.) \$2,724,607

SECTION 12.160.— To the State Treasurer

For issuing duplicate checks or drafts and outlawed checks as provided by law

From General Revenue Fund \$1,525,000E

SECTION 12.170.— To the State Treasurer

For payment of claims for abandoned property transferred by holders to the state

From Abandoned Fund Account \$16,000,000E

SECTION 12.175.— To the State Treasurer

For transfer of such sums as may be necessary to make payment of claims from
the Abandoned Fund Account pursuant to Chapter 447, RSMo

From General Revenue Fund \$1E

SECTION 12.180.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned
Fund Account, to the General Revenue Fund

From Abandoned Fund Account \$15,000,000E

SECTION 12.185.— To the State Treasurer

For refunds of excess interest from the Linked Deposit Program

From General Revenue Fund \$3,000E

SECTION 12.190.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the funds listed
below, to the Missouri Investment Trust Fund

From Missouri Arts Council Trust Fund \$2,000,000E

From Missouri Humanities Council Trust Fund 1,000,000E

From Secretary of State - Wolfner State Library Fund 375,000E

Total \$3,375,000

SECTION 12.195.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Debt Offset
Escrow Fund, to the General Revenue Fund

From Debt Offset Escrow Fund \$600,000E

SECTION 12.200.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to various funds,
to the General Revenue Fund

From Various Funds \$1E

SECTION 12.205.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned
Fund Account, to the State Public School Fund

From Abandoned Fund Account \$2,500,000E

SECTION 12.210.— To the Attorney General

Personal Service and/or Expense and Equipment

From General Revenue Fund \$11,983,722

From Federal Funds 2,151,224

From Gaming Commission Fund 129,794

From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount . . 37,899

From Solid Waste Management Fund 38,399

From Petroleum Storage Tank Insurance Fund 22,757

From Motor Vehicle Commission Fund 45,892

From Health Spa Regulatory Fund 5,000

From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount . . . 37,875

From Attorney General's Court Costs Fund 187,000

From Soil and Water Sales Tax Fund 13,322

From Merchandising Practices Revolving Fund 2,516,922

From Workers' Compensation Fund 445,119

From Workers' Compensation-Second Injury Fund 2,675,278

From Lottery Enterprise Fund	50,081
From Attorney General's Anti-Trust Fund	589,544
From Hazardous Waste Fund	37,875
From Safe Drinking Water Fund	13,344
From Hazardous Waste Remedial Fund	234,043
From Inmate Incarceration Reimbursement Act Revolving Fund	35,025
From Mined Land Reclamation Fund	13,317
Total (Not to exceed 386.05 F.T.E.)	\$21,263,432

SECTION 12.215.— To the Attorney General

For law enforcement, domestic violence and victims' services

Expense and Equipment

From Federal Funds	\$100,000
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SECTION 12.225.— To the Attorney General

For a Medicaid fraud unit

Personal Service and/or Expense and Equipment

From General Revenue Fund	\$301,616
From Federal Funds	1,528,309
Total (Not to exceed 23.00 F.T.E.)	\$1,829,925

SECTION 12.230.— To the Attorney General

For the Missouri Office of Prosecution Services

Personal Service and/or Expense and Equipment

From Federal Funds	\$1,057,748
From Missouri Office of Prosecution Services Fund	384,638
From Missouri Office of Prosecution Services Revolving Fund	150,000E
Total (Not to exceed 8.00 F.T.E.)	\$1,592,386

SECTION 12.237.— To the Attorney General

For the fulfillment or failure of conditions, or other such developments,
 necessary to determine the appropriate disposition of such funds,
 to those individuals, entities, or accounts within the State Treasury,
 certified by the Attorney General as being entitled to receive them
 Expense and Equipment

From Attorney General Trust Fund	\$1E
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SECTION 12.240.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General
 Revenue Fund, to the Attorney General's Court Costs Fund

From General Revenue Fund	\$165,600
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SECTION 12.250.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General
 Revenue Fund, to the Attorney General's Anti-Trust Fund

From General Revenue Fund	\$69,000
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SECTION 12.300.— To the Supreme Court

For the purpose of funding Judicial Proceedings and Review

Personal Service and/or Expense and Equipment, provided that not more
 than ten percent (10%) flexibility is allowed between each appropriation

From General Revenue Fund	\$4,180,844
From Federal and Others Funds	439,600

Expense and Equipment

From Supreme Court Publications Revolving Fund	150,000
Total (Not to exceed 82.00 F.T.E.)	<u>\$4,770,444</u>

SECTION 12.305.— To the Supreme Court
For the purpose of funding basic legal services

Personal Service	\$47,100E
Expense and Equipment	<u>2,010,266E</u>
From Basic Civil Legal Services Fund (Not to exceed 1.00 F.T.E.)	\$2,057,366

SECTION 12.315.— To the Supreme Court
For the purpose of funding the State Courts Administrator

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$3,587,357

Expense and Equipment	
From State Court Administration Revolving Fund	<u>30,000</u>
Total (Not to exceed 71 F.T.E.)	<u>\$3,617,357</u>

SECTION 12.320.— To the Supreme Court
For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Supreme Court and other state courts

Personal Service	\$1,922,169
Expense and Equipment	<u>11,736,828E</u>
From Federal and Other Funds	13,658,997

Personal Service	28,044
Expense and Equipment	<u>300</u>
From Basic Civil Legal Services Fund	28,344
Total (Not to exceed 44.25 F.T.E.)	<u>\$13,687,341</u>

SECTION 12.325.— To the Supreme Court
For the purpose of developing and implementing a program of statewide court automation

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$7,159,507

Personal Service	1,414,819
Expense and Equipment	<u>3,595,125</u>
From the Statewide Court Automation Fund, and any grants, contributions, or receipts from federal government or any other source deposited into the State Treasury for court automation	5,009,944
From the Crime Victims' Compensation Fund	<u>632,000</u>
Total (Not to exceed 100.00 F.T.E.)	<u>\$12,801,451</u>

SECTION 12.330.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Judicial Education and Training Fund

From General Revenue Fund	\$1,455,363
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SECTION 12.335.— To the Supreme Court
For the purpose of funding judicial education and training

Expense and Equipment	
From Federal Funds	\$225,000

Personal Service	560,554
Expense and Equipment	<u>1,114,522</u>
From Judiciary Education and Training Fund	<u>1,675,076</u>
Total (Not to exceed 13.00 F.T.E.)	\$1,900,076

SECTION 12.340.— To the Supreme Court

For the purpose of funding the Court of Appeals - Western District

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 53.50 F.T.E.)	\$3,422,833

SECTION 12.345.— To the Supreme Court

For the purpose of funding the Court of Appeals - Eastern District

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 73.75 F.T.E.)	\$4,436,105

SECTION 12.350.— To the Supreme Court

For the purpose of funding the Court of Appeals - Southern District

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 31.60 F.T.E.)	\$2,299,356

SECTION 12.355.— To the Supreme Court

For the purpose of funding the circuit courts

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund	\$111,851,540

For the purpose of funding a new Judgeship in the 23rd Judicial Circuit, to be appointed no earlier than February 1, 2005

From General Revenue Fund (Not to exceed 0.42 F.T.E.)	40,000
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Personal Service	1,325,375
Expense and Equipment	<u>308,805</u>
From Federal and Other Funds	1,634,180

Personal Service	71,544
Expense and Equipment	<u>20,856</u>
From Domestic Relations Resolution Fund	92,400

Personal Service	228,873
Expense and Equipment	<u>128,039</u>
From Third Party Liability Fund	356,912

Expense and Equipment	
From State Court Administration Revolving Fund	<u>150,000</u>
Total (Not to exceed 2,891.62 F.T.E.)	\$114,125,032

SECTION 12.360.— To the Supreme Court

For the purpose of making payments due from litigants in court proceedings under set-off against debts authority as provided in Section 488.020(3), RSMo

From Debt Offset Escrow Fund	\$100,000E
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For the purpose of funding court-appointed special advocacy programs as
provided in Section 476.777, RSMo
From Missouri CASA Fund 200,000

For the purpose of funding costs associated with creating the handbook and
other programs as provided in Section 452.554, RSMo
From the Domestic Relations Resolution Fund 500,000
Total \$800,000

SECTION 12.365.— There is transferred out of the State Treasury, chargeable
to the Drug Court Resources Fund
From General Revenue Fund \$2,196,500

SECTION 12.370.— To the Supreme Court
For the purpose of funding drug courts
From Federal Funds \$1,125,000

Personal Service 216,115
Expense and Equipment 1,985,185
From the Drug Court Resources Fund, and any grants, contributions, or receipts
from the federal government or any other source deposited into the State
Treasury for drug courts 2,201,300
Total (Not to exceed 4.00 F.T.E.) \$3,326,300

SECTION 12.375.— To the Commission on Retirement, Removal, and
Discipline of Judges
For the purpose of funding the payment of expenses of the commission
Personal Service \$150,494
Expense and Equipment 42,667
From General Revenue Fund (Not to exceed 2.75 F.T.E.) \$193,161

SECTION 12.380.— To the Supreme Court
For the purpose of funding the expenses of the members of the Appellate
Judicial Commission and the several circuit judicial commissions in
circuits having the non-partisan court plan, and for services rendered
by clerks of the Supreme Court, courts of appeals, and clerks in
circuits having the non-partisan court plan for giving notice of and
conducting elections as ordered by the Supreme Court
From General Revenue Fund \$7,741

SECTION 12.400.— To the Office of the State Public Defender
For the purpose of funding the State Public Defender System
Personal Service and/or Expense and Equipment \$26,221,780
For payment of expenses as provided by Chapter 600, RSMo, associated with
the defense of violent crimes and/or the defense of cases where a conflict
of interest exists 2,241,502
From General Revenue Fund 28,463,282

For expenses authorized by the Public Defender Commission as provided by
Section 600.090, RSMo
Personal Service 60,778
Expense and Equipment 1,157,356
From Legal Defense and Defender Fund 1,218,134

For refunds set-off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund 350,000E

For all grants and contributions of funds from the federal government or from
any other source which may be deposited in the State Treasury for the use
of the Office of the State Public Defender

From Federal Funds 125,000
Total (Not to exceed 560.13 F.T.E.) \$30,156,416

SECTION 12.500.— To the Senate

Salaries of Members \$1,071,448
Mileage of Members 56,435
Senate Per Diem 226,100
Senate Contingent Expenses 8,669,120
Joint Contingent Expenses 100,000
Joint Committee on Administrative Rules 119,707
Joint Committee on Public Employee Retirement Systems 155,000
Joint Committee on Capital Improvements Oversight 118,964
Joint Committee on Transportation 100,853
From General Revenue Fund 10,617,627

Senate Contingent Expenses
From Senate Revolving Fund 40,000
Total \$10,657,627

SECTION 12.505.— To the House of Representatives

Salaries of Members \$5,117,283
Mileage of Members 342,660
Members' Per Diem 1,083,950
Representatives' Expense Vouchers 1,564,800
House Contingent Expenses 10,537,710
From General Revenue Fund 18,646,403

House Contingent Expenses
From House of Representatives Revolving Fund 45,000E
Total \$18,691,403

SECTION 12.510.— To the Missouri Commission on Interstate Cooperation

For payment of dues to the National Conference of State Legislatures
From General Revenue Fund \$40,000

SECTION 12.515.— To the Committee on Legislative Research - Administration

For payment of expenses of members, salaries and expenses of employees, and
other necessary operating expenses
From General Revenue Fund \$1,173,781

SECTION 12.520.— To the Committee on Legislative Research

For paper, printing, binding, editing, proofreading, and other necessary expenses
of publishing the Supplement to the Revised Statutes of the State of Missouri
From General Revenue Fund \$164,664
From Statutory Revision Fund 107,691
Total \$272,355

SECTION 12.525.— To the Committee on Legislative Research - Oversight Division

For payment of expenses of members, salaries and expenses of employees, and
other necessary operating expenses

From General Revenue Fund \$708,063

SECTION 12.530.— To the Interim Committees of the General Assembly

For the Joint Committee on Correctional Institutions and Problems

From General Revenue Fund \$2,000

ELECTED OFFICIALS TOTAL

General Revenue Fund \$42,966,148

Federal Funds 36,306,937

Other Funds 42,515,051

Total \$121,788,136

JUDICIARY TOTAL

General Revenue Fund \$140,830,307

Federal Funds 17,082,777

Other Funds 9,206,966

Total \$167,120,050

PUBLIC DEFENDER COMMISSION TOTAL

General Revenue Fund \$28,463,282

Federal Funds 125,000

Other Funds 1,218,134

Total \$29,806,416

GENERAL ASSEMBLY TOTAL

General Revenue Fund \$31,352,538

Other Funds 192,691

Total \$31,545,229

Approved June 16, 2004

HB 1014 [CCS SCS HCS HB 1014]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2004.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2004, as follows:

SECTION 14.005.— To the Department of Elementary and Secondary Education

For distributions to the free public schools under the School Foundation Program

as provided in Chapter 163, RSMo, for the Early Childhood Special

Education Program

From Lottery Proceeds Fund \$14,980,488

SECTION 14.010.— To the Department of Elementary and Secondary Education
For State Board of Education operated school programs

Expense and Equipment	
From General Revenue	\$502,000
From Federal Funds	1,000,000
Total	\$1,502,000

SECTION 14.015.— To the Department of Elementary and Secondary Education
For the Division of Special Education

Personal Service	
From General Revenue Fund	\$10,135

SECTION 14.020.— To the Department of Elementary and Secondary Education
For grants to rural and low income schools

From Federal Funds	\$300,000
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SECTION 14.025.— To the Department of Elementary and Secondary Education
For the First Steps Program provided that any future RFP for the First Steps
Program funded under this section shall contain an optional provision
providing for contracting through an intergovernmental agreement with
those agencies authorized pursuant to 205.968 through 205.972, RSMo,
for administration of individual family support plan services for eligible
children residing in such county. Any intergovernmental agreement may,
at the election of the agency authorized pursuant to 205.968 through
205.972, RSMo, include system point of entry, services coordination, and
other early intervention services authorized under the First Steps Program

From General Revenue Fund	\$7,363,648
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SECTION 14.030.— To the Department of Higher Education
For the Public Service Officer or Employee Survivor Grant Program pursuant
to Section 173.260, RSMo

From Lottery Proceeds Fund	\$22,460
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SECTION 14.035.— To the Department of Higher Education
For the Vietnam Veterans Survivors Scholarship Program pursuant to Section
173.235, RSMo

From Lottery Proceeds Fund	\$23,370
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SECTION 14.040.— To the Department of Higher Education
For the Missouri Guaranteed Student Loan Program

Expense and Equipment	
From Guaranty Agency Operating Fund	\$250,000

SECTION 14.043.— There is transferred out of the state treasury, chargeable
to the General Revenue Fund, amounts from income tax refunds designated
by taxpayers for deposit in the Division of Aging and Elderly Home Delivered
Meals Trust Fund, Veterans' Trust Fund, Children's Trust Fund, Workers
Memorial Fund, and Missouri National Guard Trust Fund

From General Revenue Fund	\$3,000E
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SECTION 14.044.— There is transferred out of the state treasury, chargeable to
the Workers Memorial Fund, amounts from income tax refunds erroneously
deposited to said fund, to the General Revenue Fund

From Workers Memorial Fund	\$250E
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SECTION 14.045.— To the Department of Transportation

For the Rail Program

For state participation in the joint/federal Amtrak Rail Passenger Service Program

From General Revenue Fund \$884,815

SECTION 14.050.— To the Office of Administration

For the Commissioner's Office

For paying an amount in aid to the counties that is the net amount of costs in
 criminal cases, transportation of convicted criminals to the state penitentiaries,
 and costs for reimbursement of the expenses associated with extradition, less
 the amount of unpaid city or county liability to furnish public defender office
 space and utility services pursuant to Section 600.040, RSMo

From General Revenue Fund \$5,715,000

SECTION 14.055.— To the Office of Administration

For the Children's Services Commission

Expense and Equipment

From Children's Services Commission Fund \$7,000

SECTION 14.060.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the General
 Revenue Fund, to the Single-Purpose Animal Facilities Loan Guarantee Fund

From General Revenue Fund \$1E

SECTION 14.065.— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Section 348.190, RSMo

From Single-Purpose Animal Facilities Loan Guarantee Fund \$1E

SECTION 14.070.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Agricultural Products Utilization and Business
 Development Loan Guarantee Fund

From General Revenue Fund \$1E

SECTION 14.075.— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Section 348.409, RSMo

From Agricultural Products Utilization and Business Development

Loan Guarantee Fund \$1E

SECTION 14.077.— To the Department of Agriculture

For the Division of Animal Health

Personal Service \$21,667

Expense and Equipment 2,000

From General Revenue Fund 23,667

Personal Service 21,667

Expense and Equipment 2,000

From Federal Funds 23,667

Total \$47,334

SECTION 14.080.— To the Department of Economic Development

For the Division of Administrative Services

For the Missouri Downtown and Rural Economic Stimulus Act

Expense and Equipment

From General Revenue Fund \$33,333

SECTION 14.085.— To the Department of Economic Development

For the Division of Business Services

Personal Service	\$8,796
Expense and Equipment	<u>5,815</u>
From General Revenue Fund	\$14,611

SECTION 14.090.— To the Department of Economic Development

For the Division of Community Development

Personal Service	\$8,796
Expense and Equipment	<u>5,815</u>
From General Revenue Fund	\$14,611

SECTION 14.095.— To the Department of Economic DevelopmentFor the Missouri Downtown Economic Stimulus Act, as provided in sections
99.915 to 99.980, RSMo

From State Supplemental Downtown Development Fund	\$1E
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For the Missouri Rural Economic Stimulus Act, as provided in sections

99.1000 to 99.1060, RSMo

From State Supplemental Rural Development Fund	<u>1E</u>
Total	\$2

SECTION 14.100.— To the Department of Economic DevelopmentThere is hereby transferred out of the State Treasury, chargeable to the State
Supplemental Downtown Development Fund to the General Revenue Fund

From State Supplemental Downtown Development Fund	\$1E
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There is hereby transferred out of the State Treasury, chargeable to the State
Supplemental Rural Development Fund to the General Revenue Fund

From State Supplemental Rural Development Fund	<u>1E</u>
Total	\$2

SECTION 14.105.— To the Department of Economic Development

For the Division of Community Development

For the Delta Regional Authority, provided that funds may be expended only if
federal funds are appropriated to the Authority pursuant to the Consolidated
Farm and Rural Development Act (7 U.S.C. 1921 et seq.)

From General Revenue Fund	\$80,000
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SECTION 14.110.— To the Department of Economic Development

For the Office of Public Counsel

Expense and Equipment

From General Revenue Fund	\$3,476
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SECTION 14.115.— To the Department of Economic Development

For general administration of Utility Regulation activities

For the Public Service Commission

Personal Service	\$87,812
Expense and Equipment	<u>60,599</u>
From Public Service Commission Fund	\$148,411

SECTION 14.120.— To the Department of Labor and Industrial Relations

For the Division of Workers' Compensation

For payment of special claims

From Workers' Compensation - Second Injury Fund	\$1,500,000E
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SECTION 14.125.— To the Department of Labor and Industrial Relations
For the Missouri Commission on Human Rights

Personal Service
From Federal Funds \$42,673

SECTION 14.130.— To the Department of Public Safety
For the National Forensic Sciences Improvement Act Program

From Federal Funds \$305,226

SECTION 14.135.— To the Department of Public Safety
For the State Highway Patrol

For the Enforcement Program
Expense and Equipment
From Criminal Record System Fund \$1,210,000

SECTION 14.137.— To the Department of Public Safety
For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including aircraft,
and Gaming Commission vehicles
Expense and Equipment
From State Highways and Transportation Department Fund \$228,807

SECTION 14.140.— To the Department of Public Safety
For the State Highway Patrol

For Technical Services
Expense and Equipment
From State Highways and Transportation Department Fund \$892,778

SECTION 14.145.— To the Department of Public Safety
For the State Water Patrol

Expense and Equipment
From Federal Funds \$90,000

SECTION 14.150.— To the Adjutant General
For the Veterans' Recognition Program

For supplies and professional services
From Veterans' Commission Capital Improvement Trust Fund \$404,949

SECTION 14.155.— To the Department of Corrections
For the purpose of funding the expense of fuel and utilities department wide

Expense and Equipment
From General Revenue Fund \$51,246

SECTION 14.160.— To the Department of Mental Health
For the Division of Alcohol and Drug Abuse

For treatment of alcohol and drug abuse
From General Revenue Fund \$327,508

SECTION 14.165.— To the Department of Mental Health
For the Division of Comprehensive Psychiatric Services
For the purpose of funding adult community programs provided that up to ten
percent of this appropriation may be used for services for youth

From General Revenue Fund \$1,211,292

SECTION 14.170.— To the Department of Health and Senior Services

For the Office of the Director	
For the purpose of funding federal grants which may become available between sessions of the General Assembly	
Personal Service	\$347,653
Expense and Equipment	1,323,066
From Federal Funds	<u>\$1,670,719</u>

SECTION 14.175.— To the Department of Health and Senior Services

For the Division of Environmental Health and Communicable Disease Prevention	
Personal Service	\$27,117
Expense and Equipment	10,266
From Missouri Public Health Services Fund	<u>\$37,383</u>

SECTION 14.180.— To the Department of Social Services

For the Family Support Division	
For the purpose of funding the electronic benefit transfers (EBT) system to reduce fraud, waste, and abuse	
From General Revenue Fund	\$428,331
From Federal Funds	375,442
Total	<u>\$803,773</u>

SECTION 14.185.— To the Department of Social Services

For the Family Support Division	
For the purpose of funding nursing care payments to aged, blind, or disabled persons, provided a portion of this appropriation may be transferred to the Department of Mental Health for persons removed from the Supplemental Nursing Care Program and placed in the Supported Housing Program, resulting in a reduction of Department of Mental Health supplemental nursing home clients and for personal funds to recipients of Supplemental Nursing Care payments as required by section 208.030, RSMo	
From General Revenue Fund	\$458,937

SECTION 14.190.— To the Department of Social Services

For the Division of Medical Services	
For funding long-term care services	
For the purpose of funding home health, respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, children's waiver services, Program for All-Inclusive Care for the Elderly, and other related services under the Medicaid fee-for-service and managed care programs. Provided that an individual eligible for or receiving nursing home care must be given the opportunity to have those Medicaid dollars follow them to the community to the extent necessary to meet their unmet needs as determined by 13 CSR 15 9.030(5) and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed Medicaid State Plan Amendment that is administered by the Division of Vocational Rehabilitation in the Department of Elementary and Secondary Education. And further provided that individuals eligible for the Medicaid Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet need as determined by 13 CSR 15 9.030(5); and also be allowed to have their Medicaid funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute. The single state agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical	

assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety percent of the federal poverty level, and those persons whose income exceeds ninety percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From Federal Funds \$593,200

SECTION 14.195.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding all other non-institutional services, including, but not limited to, rehabilitation, optometry, audiology, ambulance, non-emergency medical transportation, durable medical equipment, and eyeglasses following cataract surgery under the Medicaid fee-for-service and managed care programs.

A portion of this funding allows for contracted services related to prior authorization of certain Medicaid services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipients' spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety percent of the federal poverty level, and those persons whose income exceeds ninety percent of federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund \$8,803

From Federal Funds 14,044

Total \$22,847

SECTION 14.200.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the Medicaid fee-for-service programs or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (22), RSMo. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety percent of the federal poverty level, and those persons whose income exceeds ninety percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund \$3,508,099

From Federal Funds 5,582,595

Total \$9,090,694

SECTION 14.205.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding hospital care under the Medicaid fee-for-service and managed care programs. The Division of Medical Services may adjust SFY 2004 costs of the uninsured payments to hospitals to reflect the impact on hospitals of the elimination of Medicaid coverage for adults with

incomes above 77 percent of the federal poverty level and who were covered through a Section 1931 transfer. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety percent of the federal poverty level, and those persons whose income exceeds ninety percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$2,292,613
From Federal Funds	3,604,653
Total	<u>\$5,897,266</u>

SECTION 14.210.— To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to care for uninsured children using fee-for-services, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. Provided that the Department shall implement co-payments as provided in sections 208.631 to 208.657, RSMo. In order to be eligible, and pursuant to the provisions of sections 208.631 to 208.657, RSMo, parents and guardians of uninsured children with incomes between two hundred twenty-six and three hundred percent of the federal poverty level shall submit with their application two health insurance quotes from insurers providing services in their community. Said quotes shall exceed one hundred thirty-three percent of the average monthly premium currently required in the Missouri Consolidated Health Care Plan. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety percent of the federal poverty level, and those persons whose income exceeds ninety percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits

From General Revenue Fund	\$350,822
From Federal Funds	946,245
Total	<u>\$1,297,067</u>

SECTION 14.215.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding appropriations for any medical service under the Medicaid fee-for-service, managed care, or State Medical programs, including related services. Appropriations shall not be used to provide reimbursement for adult dental services provided after July 1, 2003. Monies are not appropriated for coverage of medical assistance for persons whose incomes, calculated using less restrictive income methodologies, as authorized in 42 USC Section 1396(r)(2), exceeds ninety percent of the federal poverty level, and those persons whose income exceeds ninety percent of the federal poverty level will not be eligible for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend down amount

From General Revenue Fund	\$6,179,414
From Federal Funds	94,245,071
From Uncompensated Care Fund	81,900,000
Total	<u>\$182,324,485</u>

SECTION 14.220.— To the Governor

For conducting special audits

From General Revenue Fund	\$50,000
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SECTION 14.225.— To the Secretary of State

For the Missouri State Library

For the purpose of funding costs related to library automation

From General Revenue Fund	\$103,204
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SECTION 14.233.— To the Supreme Court

For the purpose of funding Judicial Proceedings and Review

Personal Service and/or Expense and Equipment, provided that not more
than fifteen percent (15%) flexibility is allowed between each appropriation

From General Revenue Fund	\$56,137
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SECTION 14.235.— To the Supreme Court

Personal Service	\$21,033
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Expense and Equipment	<u>5,266</u>
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From the Basic Civil Legal Services Fund	\$26,299
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SECTION 14.240.— To the Supreme Court

Expense and Equipment

From Drug Court Resources Fund	\$250,000
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SECTION 14.245.— To the Senate

For the Joint Committee on Transportation

From General Revenue Fund	\$27,775
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BILL TOTALS

General Revenue Fund	\$29,702,479
Federal Funds	108,793,535
Other Funds	<u>101,631,947</u>
Total	<u>\$240,127,961</u>

Approved April 16, 2004

HB 1021 [SS SCS HS HB 1021]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended
to be omitted in the law.

APPROPRIATIONS: CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for planning, expenses, and for capital improvements including,
but not limited to, major additions and renovations, new structures, and land improvements
or acquisitions, and to transfer money among certain funds

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2004 and ending June 30, 2005, as follows:

SECTION 21.005.— To the Office of Administration
For the Division of Design and Construction
For receipt and expenditure of federal disaster relief funds
From Federal Funds \$1E

SECTION 21.010.— To the Office of Administration
For the Department of Public Safety
For the construction, renovations, and improvements at state veterans' homes
From Veterans' Commission Capital Improvement Trust Fund \$2,000,000

SECTION 21.015.— To the Office of Administration
For the Adjutant General Missouri National Guard
For administrative support of federal projects
From General Revenue Fund \$365,044

SECTION 21.020.— To the Office of Administration
For the Adjutant General Missouri National Guard
For construction of an armory in Sedalia
From General Revenue Fund \$40,000

SECTION 21.023.— To the University of Missouri
For the lease purchase of dental equipment for the Dental School on the
Kansas City Campus
From Lottery Proceeds Fund \$500,000
From Bingo Proceeds for Education Fund 500,000
Total \$1,000,000

SECTION 21.025.— To Central Missouri State University
For building exhaust and air supply systems at the W. C. Morris Science Building
From General Revenue Fund \$220,000

BILL TOTALS

General Revenue Fund	\$625,044
Federal Funds	1
Other Funds	<u>3,000,000</u>
Total	<u>\$3,625,045</u>

Approved June 16, 2004

HB 795 [CCS SS SCS HCS HB 795, 972, 1128 & 1161]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes various provisions related to county government.

AN ACT to repeal sections 49.272, 49.650, 50.339, 50.515, 50.740, 50.1110, 50.1140, 50.1250, 52.269, 52.271, 64.520, 64.805, 64.825, 64.930, 67.478, 67.481, 67.484, 67.487, 67.490, 67.493, 67.793, 67.799, 67.1360, 67.1401, 67.1706, 67.1754, 89.410, 137.100, 137.298, 137.720, 144.030, 144.615, 144.757, 144.759, 193.265, 229.340, 245.015, 245.060, 245.095, 246.305, 260.831, 304.010, 321.554, 321.556, 389.610, 393.760, 475.275, 479.020, 488.426, 488.429, 493.050, and 644.032, RSMo, and to enact in lieu thereof sixty-two new sections relating to county government, with penalty provisions, a termination date for a certain section, and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 49.272. County counselor may impose fine for certain violations of rules, regulations or ordinances, amount (Boone, Cass, and Greene Counties).
- 49.650. Certain county ordinances and resolutions authorized relating to county property and affairs — submission to voters — certain restrictions for counties of the third classification.
- 50.339. Cole County and Cape Girardeau salary commission authorized to equalize salaries on a one-time basis.
- 50.515. County governing body may impose administrative service fee, when, rate — limit on fee in counties of the third classification.
- 50.740. Commission to revise and amend estimates (counties of the third and fourth classification).
- 50.1110. Options in lieu of normal annuity, election — survivorship benefit.
- 50.1140. Termination of employment, forfeit of rights, refund — deferred annuity permanent, when — payment of accumulated contributions — restoration of creditable service.
- 50.1250. Forfeiture of contributions, when — reversion of forfeitures — distribution of contribution account, when — death of a member, effect of.
- 52.269. Compensation of county collector — training program, attendance required, when, expenses, compensation — certain fees may be retained (certain counties).
- 52.271. Deputies and assistants, compensation.
- 59.331. Social security number not to be included in certain documents for recording, exceptions.
- 64.520. County planning commission — members — term — expenses — chairman (counties of the second and third class).
- 64.805. County planning commission — members — terms — expenses — chairman.
- 64.825. Regulation of subdivisions in unincorporated areas — procedure — bonds.
- 64.930. Sports complex commissioners — terms — vacancies — compensation and expenses.
- 67.320. County orders, violations may be brought in circuit court, when — county municipal court to be approved, appointment of judges, procedures (Jefferson County).
- 67.793. Petition to create a regional recreational district — filed where — content — hearing.
- 67.799. Regional recreational district may levy property or sales tax, purpose — rate of tax — election, ballot form — tax, how collected — qualified voters defined.
- 67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
- 67.1401. Community improvement district act, definitions.
- 67.1706. District to develop, operate and maintain system of interconnecting trails and parks — power to contract with other parks.
- 67.1754. Sales tax, how allocated.
- 67.2000. Creation of an exhibition center and recreational facility district, petition, hearing, ballot form — board of trustees, powers — trust fund created — sales tax authorization, procedure — dissolution of district (Buchanan, Camden, Cole, Greene, Jefferson, Miller, Morgan, Newton, and Wright counties).
- 67.2500. Establishment of a district, where — definitions (St. Charles County).
- 67.2505. Purpose of district — name — size — subdistricts permitted — procedure for establishment of a district.
- 67.2510. Alternative procedure for establishment of a district.
- 67.2515. Petition, contents, notice — hearing — district declared organized, when.
- 67.2520. Election conducted, when — sales tax vote, amount — ballot form.
- 67.2525. Board of directors, qualifications — subdivision of district, how — powers and duties of the board.
- 67.2530. Refund of district indebtedness, when, how — imposition of a sales tax authorized — deposit and use of sales tax revenue — repeal of sales tax, ballot form.

- 70.225. Emergency dispatching system, eligible for membership in local government retirement system, when (St. Louis County).
- 89.410. Regulations governing subdivision of land, limitations, contents — public hearing — escrow funds, when released.
- 137.100. Certain property exempt from taxes.
- 137.298. Cities may pass ordinance to include charges for outstanding parking tickets on personal property tax bill — personal property tax receipt, issued when — cities may enter into agreements with county to include outstanding vehicle-related fees and fines on personal property tax bill.
- 137.720. Percentage of ad valorem property tax collections to be deducted for deposit in county assessment fund — additional deduction (St. Louis City and all counties).
- 138.011. Board of equalization members, restriction on being certain local officials or school board members (charter counties).
- 144.030. Exemptions from state and local sales and use taxes.
- 144.615. Exemptions.
- 144.757. Local use tax to fund community comeback program — rate of tax — St. Louis County — ballot of submission — notice to director of revenue — repeal or reduction of local sales tax, effect on local use tax.
- 144.759. Collection of additional local use tax for economic development — deposit in local use tax trust fund, not part of state revenue — distribution to counties and municipalities — refunds — notification to director of revenue on abolishment of tax — economic development defined.
- 190.306. Dissolution of emergency telephone service not required, when (Christian County).
- 193.265. Fees for certification and other services — distribution — services free, when.
- 229.340. Fee may be required.
- 245.015. Owners may form levee district, where — articles of incorporation to be filed in circuit court.
- 245.060. Election of board of supervisors — term of office.
- 245.095. Powers and duties of supervisors.
- 246.305. Alternative levee district, certain counties — voting rights — apportionment of taxes.
- 260.831. Collection of fee by operator, payment required — separate surcharge, transmittal of funds.
- 304.010. Definitions — maximum speed limits — cities, towns, villages, certain counties, may set speed limit, how set — slower speeds set, when — violations, penalty.
- 321.554. Adjustment in total operating levy of district based on sales tax revenue, exceptions — general reassessment, effect of.
- 321.556. Repeal of sales tax, procedure, exceptions — ballot language.
- 389.610. Railroad crossings construction and maintenance, highways and transportation commission to have exclusive power to regulate and provide standards — apportionment of cost.
- 393.760. Election on issuance of bonds — required actions — notice — conduct of election — form of ballot — alternative voting procedures.
- 475.275. Verification of securities held by conservator — pooled accounts, defined, restrictions on — audit of pooled accounts, when.
- 479.020. Municipal judges, selection, tenure, jurisdiction, qualifications, course of instruction.
- 488.426. Deposit required in civil actions — exemptions — surcharge to remain in effect — additional fee for adoption and small claims court (Franklin County).
- 488.429. Fund paid to treasurer designated by circuit judge — use of fund for law library, and courtroom renovation and technology enhancement in certain counties.
- 493.050. Public advertisements and orders of publication published only in certain newspapers.
- 537.550. Limitation on liability for injury or death at fairs or festivals — signs to be posted, content.
- 644.032. Sales tax for purpose of storm water control or local parks or both may be imposed by any county or municipality — tax, how calculated — voter approval — ballot form — effective when — failure of tax, resubmission, when — revenue may be used for parks located outside of county or municipality, when.
1. Employment of county engineer by county commission not required.
 2. Leasehold revenue bonds, federal desegregation, board of fund commissioners to determine whether redemption is financially feasible.
- 67.478. Title.
- 67.481. Definitions.
- 67.484. St. Louis County authorized to form community comeback trust, purposes, formation — board, composition, nomination, powers, duties, restrictions — funding, local sales tax, bond issuance, validity, payment.
- 67.487. Community comeback plan, notification, development, distribution, annual revision and adoption — reports and audits required — advisory committee to be established by the board.
- 67.490. Petitions, contents, review, criteria, approval by board as proposal, public hearing — procedure if funds sought, additional review, findings by board required when — select neighborhood action program, eligible projects.
- 67.493. Funds, minimum to be used for SNAP grant program and priority comeback projects, other uses.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 49.272, 49.650, 50.339, 50.515, 50.740, 50.1110, 50.1140, 50.1250, 52.269, 52.271, 64.520, 64.805, 64.825, 64.930, 67.478, 67.481, 67.484, 67.487, 67.490, 67.493, 67.793, 67.799, 67.1360, 67.1401, 67.1706, 67.1754, 89.410, 137.100, 137.298, 137.720, 144.030, 144.615, 144.757, 144.759, 193.265, 229.340, 245.015, 245.060, 245.095, 246.305, 260.831, 304.010, 321.554, 321.556, 389.610, 393.760, 475.275, 479.020, 488.426, 488.429, 493.050, and 644.032, RSMo, are repealed and sixty-two new sections enacted in lieu thereof, to be known as sections 49.272, 49.650, 50.339, 50.515, 50.740, 50.1110, 50.1140, 50.1250, 52.269, 52.271, 59.331, 64.520, 64.805, 64.825, 64.930, 67.320, 67.793, 67.799, 67.1360, 67.1401, 67.1706, 67.1754, 67.2000, 67.2500, 67.2505, 67.2510, 67.2515, 67.2520, 67.2525, 67.2530, 70.225, 89.410, 137.100, 137.298, 137.720, 138.011, 144.030, 144.615, 144.757, 144.759, 190.306, 193.265, 229.340, 245.015, 245.060, 245.095, 246.305, 260.831, 304.010, 321.554, 321.556, 389.610, 393.760, 475.275, 479.020, 488.426, 488.429, 493.050, 537.550, 644.032, 1, and 2, to read as follows:

49.272. COUNTY COUNSELOR MAY IMPOSE FINE FOR CERTAIN VIOLATIONS OF RULES, REGULATIONS OR ORDINANCES, AMOUNT (BOONE, CASS, AND GREENE COUNTIES). — The county commission of any county of the first classification without a charter form of government and with more than one hundred thirty-five thousand four hundred but less than one hundred thirty-five thousand five hundred inhabitants, **and in any county of the first classification without a charter form of government having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants, and any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants,** which has an appointed county counselor and which adopts or has adopted rules, regulations or ordinances under authority of a statute which prescribes or authorizes a violation of such rules, regulations or ordinances to be a misdemeanor punishable as provided by law, may by rule, regulation or ordinance impose a civil fine not to exceed one thousand dollars for each violation. Any fines imposed and collected under such rules, regulations or ordinances shall be payable to the county general fund to be used to pay for the cost of enforcement of such rules, regulations or ordinances.

49.650. CERTAIN COUNTY ORDINANCES AND RESOLUTIONS AUTHORIZED RELATING TO COUNTY PROPERTY AND AFFAIRS — SUBMISSION TO VOTERS — CERTAIN RESTRICTIONS FOR COUNTIES OF THE THIRD CLASSIFICATION. — 1. The governing authority of each county [of the first, second, or fourth classification] without a charter form of government shall have the power to adopt ordinances or resolutions relating to its property, affairs, and local government for which no provision has been made in the constitution of this state or state statute regarding the following:

- (1) County roads controlled by the county;
- (2) Emergency management, as it specifically relates to the actual occurrence of a natural or man-made disaster of major proportions within the county when the safety and welfare of the inhabitants of such county are jeopardized;
- (3) Nuisance abatement, excluding agricultural and horticultural property as defined in section 137.016, RSMo;
- (4) Storm water control, excluding agricultural and horticultural property as defined in section 137.016, RSMo;
- (5) The promotion of economic development for job creation purposes; [and]
- (6) Parks and recreation; **and**
- (7) **Protection of the environment from the risks posed by methamphetamine production. Nothing in this subdivision shall be construed to allow a noncharter county**

to adopt an ordinance or resolution regulating the sale or display at any retail outlet of any drug having an active ingredient of ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers. Each county shall have the authority by ordinance to authorize specified officeholders to receive donations for specified purposes to defray costs of administration of programs set forth in said ordinance.

If any such ordinance, order, or resolution conflicts with a municipal, fire protection district, or ambulance district ordinance, the provisions of such municipality, fire protection district, or ambulance district shall prevail within the corporate boundaries of the municipality, of such municipality, fire protection district, or ambulance district. All ordinances adopted pursuant to this section shall remain effective until repealed or amended by the governing authority, except that the general assembly shall have the power to further define, broaden, limit, or otherwise regulate the power of each such county to adopt ordinances, resolutions, or regulations.

2. The governing body of each county [of the first, second, or fourth classification] without a charter form of government may submit to the qualified voters of the county any ordinance, resolution, or regulation proposed pursuant to this section for the approval of the qualified voters of the county. Any ordinance, resolution, or regulation submitted to the qualified voters pursuant to this section shall become effective if a majority of the qualified voters voting on the ordinance, resolution, or regulation are in favor of its adoption, but no ordinance, resolution, or regulation shall become effective if a majority of the qualified voters voting on the ordinance, resolution, or regulation are opposed to its adoption.

3. Notwithstanding any other provision of this section to the contrary, no tax or fee shall be submitted to the voters of the county unless the tax or fee has been authorized by statute by the general assembly.

4. No county of the first, second, **third**, or fourth classification shall have the power to adopt any ordinance, resolution, or regulation pursuant to this section governing any railroad company, telecommunications or wireless companies, public utilities, rural electric cooperatives, or municipal utilities.

5. No county commission of any county of the third classification shall enact an ordinance with regard to agricultural operations under this section. Any zoning ordinance adopted by any county of the third classification before August 28, 2004, shall be exempt from this subsection.

50.339. COLE COUNTY AND CAPE GIRARDEAU SALARY COMMISSION AUTHORIZED TO EQUALIZE SALARIES ON A ONE-TIME BASIS. — 1. In any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, the salary commission at its meeting in 2003 and at any meeting held in 2004 may equalize the base salary for each office to an amount not greater than that set by law as the maximum compensation. Nothing in this section shall be construed to prevent offices which have additional compensation specified in law from receiving such compensation or from having such compensation added to the base compensation in excess of the equalized salary.

2. Notwithstanding any provision of section 50.343 to the contrary, in any county of the first classification with more than sixty-eight thousand six hundred but less than sixty-eight thousand seven hundred inhabitants, the salary commission may meet in the year 2004 to determine whether to equalize the base salary for the office of treasurer with the base salaries of other county officers at an amount not greater than the amount set as the maximum compensation in subdivision (1) of subsection 1 of section 50.343.

50.515. COUNTY GOVERNING BODY MAY IMPOSE ADMINISTRATIVE SERVICE FEE, WHEN, RATE — LIMIT ON FEE IN COUNTIES OF THE THIRD CLASSIFICATION. — The governing body of any county may, by order of such governing body, impose an administrative service fee on the county park fund or the county road and bridge fund, or any specific purpose capital

improvements fund, authorized pursuant to the provisions of section 67.547, 67.550 or 67.700, RSMo. Such administrative service fee shall only be imposed to recoup expenditures made from the county general revenue fund to provide administrative services to the county park fund or the county road and bridge fund, or any specific purpose capital improvements fund authorized pursuant to section 67.547, 67.550 or 67.700, RSMo, including, but limited to, accounting, bookkeeping, legal services, auditing, investment control, fiscal management, and revenue collection. Any administrative service fee imposed under this section shall be imposed at a rate which will only generate revenue sufficient to recoup actual expenditures made from the general revenue fund of the county to provide administrative services to the fund against which such service fee is imposed, including both direct and indirect expenditures as determined by an independent audit; provided, that no administrative service fee shall exceed three percent of the total budget of the fund on which such fee is imposed, **except in any county of the third classification, in which no administrative service fee shall exceed five percent of the total budget of the fund on which such fee is imposed.**

50.740. COMMISSION TO REVISE AND AMEND ESTIMATES (COUNTIES OF THE THIRD AND FOURTH CLASSIFICATION). — 1. It is hereby made the first duty of the county commission in counties of classes three and four at its regular [February] **January** term to go over the estimates and revise and amend the same in such way as to promote efficiency and economy in county government. The commission may alter or change any estimate as public interest may require and to balance the budget, first giving the person preparing supporting data an opportunity to be heard. After the county commission shall have revised the estimate it shall be the duty of the clerk of said commission forthwith to enter such revised estimate on the record of the said commission and the commission shall forthwith enter thereon its approval.

2. The county clerk shall within five days after the date of approval of such budget estimate, file a certified copy thereof with the county treasurer, taking [his] a receipt therefor, and he shall also forward a certified copy thereof to the state auditor by registered mail. The county treasurer shall not pay nor enter protest on any warrant **except payroll** for the current year until such budget estimate shall have been so filed. If any county treasurer shall pay or enter for protest any warrant **except payroll** before the budget estimate shall have been filed, as by sections 50.525 to 50.745 provided, [he] **the county treasurer** shall be liable on [his] **the** official bond for such act. Immediately upon receipt of the estimated budget the state auditor shall send to the county clerk [his] **the** receipt therefor by registered mail.

3. Any order of the county commission of any county authorizing [and/or] **or** directing the issuance of any warrant contrary to any provision of this law shall be void and of no binding force or effect; and any county clerk, county treasurer, or other officer participating in the issuance or payment of any such warrant shall be liable therefor upon [his] **the** official bond.

50.1110. OPTIONS IN LIEU OF NORMAL ANNUITY, ELECTION — SURVIVORSHIP BENEFIT. — 1. The normal annuity of a member shall be paid to a member during his or her lifetime. Upon the member's death no further payments shall be made.

2. In lieu of the normal annuity otherwise payable to a member, the member may elect in the member's application for retirement to receive the actuarial equivalent of the member's normal annuity in reduced monthly payments for life during retirement with the provision that upon the member's death, either one hundred percent, seventy-five percent or fifty percent of the reduced normal annuity, as elected by the member, shall be continued throughout the life of and paid to the member's beneficiary.

3. The election may be made only in the application for retirement and such application shall be filed prior to the date on which the retirement of the member is to be effective. A member shall not be permitted to change the form of benefit elected or the designated beneficiary after benefits commence to him, even if the designated beneficiary dies before the member.

4. If a member dies after completing eight or more years of creditable service, the surviving spouse shall be entitled to survivorship benefits under the fifty-percent annuity option as set forth in this section. If the member was age sixty-two or older at death, the surviving spouse's benefit will commence the first day of the month following the member's death. If the member was under age sixty-two at death, the surviving spouse's benefits will commence on the first day of the month following the date the member would have attained age sixty-two had the member lived. Alternatively, the surviving spouse may elect to receive the actuarial equivalent benefit payable on the first day of any month following the date of the member's death and prior to the date the member would have attained age sixty-two, reduced for early commencement.

5. Actuarial equivalence shall be determined in accordance with assumptions adopted by the board after consulting with the actuary of the retirement system.

6. If a member dies prior to retirement and after completing eight or more years service and there is no surviving spouse, the member's designated beneficiary shall be entitled to receive a refund of the member's contributions under section 50.1040, RSMo. If there is no designated beneficiary, the contributions shall be paid to the member's estate.

50.1140. TERMINATION OF EMPLOYMENT, FORFEIT OF RIGHTS, REFUND — DEFERRED ANNUITY PERMANENT, WHEN — PAYMENT OF ACCUMULATED CONTRIBUTIONS — RESTORATION OF CREDITABLE SERVICE. — 1. Upon termination of employment, any member with less than eight years of creditable service shall forfeit all rights in the fund, including the member's accrued creditable service as of the date of the member's termination of employment, but may receive any refund of contributions to which the member is entitled pursuant to subsection 3 of this section.

2. A member who terminates employment with at least eight years of creditable service shall be entitled to an annuity from the fund, determined in accordance with the formula described in section 50.1060. The member may elect to defer the receipt of his or her annuity, until the member's attainment of age sixty-two, or the member may elect to begin receiving his or her annuity on the first day of any month following the later of the date of termination of employment or age fifty-five. If the member begins receiving an annuity before age sixty-two and termination of employment occurs on or after age fifty-five, the annuity shall be reduced by four-tenths of one percent for each month the commencement date of the annuity precedes age sixty-two, and an additional three-tenths of one percent for each month the commencement date of the annuity precedes age sixty.

3. In the event a member ceases to be a member other than by death before the date the member becomes vested in the system, the member shall be paid, upon his or her written application filed with the board, the member's accumulated contributions standing to his or her credit in the members' deposit fund.

4. A former member who has forfeited creditable service may have the creditable service restored by again becoming an employee, completing a total of eight years of uninterrupted creditable service, and purchasing the forfeited service [at the rate of two percent, or one percent if in LAGERS, of compensation plus interest equal to the current prime rate plus two percent from the date of payment of the refund] **by paying into the fund the forfeited amount previously refunded to the participant or credited to the participant's county plus interest equal to the current prime rate plus two percent.**

50.1250. FORFEITURE OF CONTRIBUTIONS, WHEN — REVERSION OF FORFEITURES — DISTRIBUTION OF CONTRIBUTION ACCOUNT, WHEN — DEATH OF A MEMBER, EFFECT OF. —

1. If a member has less than five years of creditable service upon termination of employment, the member shall forfeit the portion of his or her defined contribution account attributable to board matching contributions or county matching contributions pursuant to section 50.1230. The proceeds of such forfeiture shall be applied towards matching contributions made by the board for the calendar year in which the forfeiture occurs. If the board does not approve a matching

contribution, then forfeitures shall revert to the county employees' retirement fund. The proceeds of such forfeiture with respect to county matching contributions shall be applied toward matching contributions made by the respective county in accordance with rules prescribed by the board.

2. A member shall be eligible to receive a distribution of the member's defined contribution account [as soon as administratively feasible following termination of employment, or may choose to receive the account balance at a later time, but no later than his or her required beginning date. The member's account balance shall be paid in a single sum] **in such form selected by the member as permitted under and in accordance with the rules and regulations formulated and adopted by the board from time to time, and commencing as soon as administratively feasible following separation from service, unless the member elects to receive the account balance at a later time, but no later than his or her required beginning date. Notwithstanding the foregoing, if the value of a member's defined contribution account balance is five thousand dollars or less at the time of the member's separation from service, without respect to any board matching contributions or employer matching contribution which might be allocated following the member's separation from service, then his or her defined contribution account shall be distributed to the member in a single sum as soon as administratively feasible following his or her separation from service.** The amount of the distribution shall be the amount determined as of the valuation date described in section 50.1240, if the member has at least five years of creditable service. If the member has less than five years of creditable service upon his or her [termination of employment] **separation from service**, then the amount of the distribution shall equal the portion of the member's defined contribution account attributable to the member's seed contributions pursuant to section 50.1220, if any, determined as of the valuation date.

3. If the member dies before receiving the member's account balance, the member's designated beneficiary shall receive the member's defined contribution account balance, as determined as of the immediately preceding valuation date, in a single sum. The member's beneficiary shall be his or her spouse, if married, or his or her estate, if not married, unless the member designates an alternative beneficiary in accordance with procedures established by the board.

52.269. COMPENSATION OF COUNTY COLLECTOR — TRAINING PROGRAM, ATTENDANCE REQUIRED, WHEN, EXPENSES, COMPENSATION — CERTAIN FEES MAY BE RETAINED (CERTAIN COUNTIES). — 1. In all counties, except first classification counties having a charter form of government and first classification counties not having a charter form of government and not containing any part of a city with a population of three hundred thousand or more, the county collector shall receive an annual salary which shall be paid in equal monthly installments by the county. The salary shall be computed on an assessed valuation basis as provided in this subsection. The assessed valuation factor shall be the amount as shown for the year next preceding the annual salary computation. A county collector subject to the provisions of this section shall not receive an annual compensation less than the total compensation being received by the county collector in that county for services rendered or performed for the period beginning March 1, 1987, and ending February 29, 1988. The county collector shall receive the same percentage adjustments provided by the county salary commissions for county officers in that county pursuant to section 50.333, RSMo. The provisions of this section shall not permit or require a reduction in the amount of compensation being paid for the office of county collector on January 1, 1997, or less than the total compensation being received for the services rendered or performed for the period beginning March 1, 1987, and ending February 29, 1988. The salary shall be computed on the basis of the following schedule:

Assessed Valuation	Salary
\$18,000,000 to 40,999,999	\$29,000
41,000,000 to 53,999,999	30,000
54,000,000 to 65,999,999	32,000

66,000,000 to 85,999,999	34,000
86,000,000 to 99,999,999	36,000
100,000,000 to 130,999,999	38,000
131,000,000 to 159,999,999	40,000
160,000,000 to 189,999,999	41,000
190,000,000 to 249,999,999	41,500
250,000,000 to 299,999,999	43,000
300,000,000 or more	45,000

2. Two thousand dollars of the salary authorized in this section shall be payable to the collector only if the collector has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the collector's office when approved by a professional association of the county collectors of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each collector who completes the training program and shall send a list of certified collectors to the treasurer of each county. Expenses incurred for attending the training session may be reimbursed to the county collector in the same manner as other expenses as may be appropriated for that purpose.

3. Any provision of law to the contrary notwithstanding, any fee provided for in section 52.250 or 52.275, when collected on ditch and levee taxes, shall not be collected on behalf of the county and deposited into the county general revenue fund. Such fee shall be retained by the collector as compensation for his services, in addition to any amount provided for such collector in this section. [Any fee which may be retained by the collector under the terms of such contract may be retained in addition to all other compensation provided by law.]

4. Except as provided in subsection 3 of this section, after the next general election following January 1, 1988, all fees collected by the collector shall be collected on behalf of the county and deposited in the county general revenue fund.

52.271. DEPUTIES AND ASSISTANTS, COMPENSATION. — 1. Notwithstanding any provisions of law to the contrary, or any other provision of law in conflict with the provisions of this section, the county collector in each county [of the third class] shall be allowed to employ not less than one full-time deputy and is entitled to employ such number of deputies and assistants as may be necessary to promptly and correctly perform the duties of the collector's office, and for the deputies and assistants is allowed not less than the amount allowed in [1992 or 1993] 2001 or 2002, whichever is greater.

2. For the purpose of computing the various amounts under the provisions of subsection 1 of this section, the salary of the county collector is the total compensation provided in section 52.269.

59.331. SOCIAL SECURITY NUMBER NOT TO BE INCLUDED IN CERTAIN DOCUMENTS FOR RECORDING, EXCEPTIONS. — The preparer of a document shall not include an individual's federal social security number in a document that is prepared and presented for recording in the office of the recorder of deeds. This section does not apply to state or federal tax liens, military separation or discharge papers, and other documents required by law to contain such information that are filed or recorded in the office of the recorder of deeds.

64.520. COUNTY PLANNING COMMISSION — MEMBERS — TERM — EXPENSES — CHAIRMAN (COUNTIES OF THE SECOND AND THIRD CLASS). — Such county planning commission shall consist of the county highway engineer or head of the highway department, and one resident of the county appointed by the county commission, from the unincorporated part of each township in the county, except that no such [freeholder] resident shall be appointed from a township in which there is no unincorporated area. The township representatives are

hereinafter referred to as appointed members. The term of each appointed member shall be four years or until his successor takes office, except that the terms shall be overlapping and that the respective terms of the members first appointed may be less than four years. The term of the county highway engineer shall be only for the duration of his tenure of official position. All members of the county planning commission shall serve as such without compensation, except that an attendance fee as reimbursement for expenses for hearings, and for not to exceed two administrative meetings per month, may be paid to the appointed members of the planning commission in an amount, as set by the county commission, not to exceed [fifteen] **twenty-five** dollars for each meeting. The planning commission shall elect its chairman, who shall serve for one year.

64.805. COUNTY PLANNING COMMISSION — MEMBERS — TERMS — EXPENSES — CHAIRMAN. — The county planning commission shall consist of the county highway engineer, and one resident of the county appointed by the county commission, from the unincorporated part of each township in the county, except that no such person shall be appointed from a township in which there is no unincorporated area. The township representatives are hereinafter referred to as appointed members. The term of each appointed member shall be four years or until his successor takes office, except that the terms shall be overlapping and that the respective terms of the members first appointed may be less than four years. The term of the county highway engineer shall be only for the duration of his tenure of official position. All members of the county planning commission shall serve as such without compensation, except that an attendance fee as reimbursement for expenses, for not to exceed four meetings per year, may be paid to the appointed members of the county planning commission in an amount, as set by the county commission, not to exceed [ten] **twenty-five** dollars per meeting. The planning commission shall elect its chairman, who shall serve for one year.

64.825. REGULATION OF SUBDIVISIONS IN UNINCORPORATED AREAS — PROCEDURE — BONDS. — The county planning commission may also prepare, with the approval of the county commission, as parts of the official master plan or otherwise, sets of regulations governing subdivisions of land in unincorporated areas, and amend or change same from time to time as herein provided, which regulations may provide for the proper location and width of streets, building lines, open spaces, safety, recreation, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may also include the extent to which and the manner in which streets shall be graded and improved, and the extent to which water, sewer and other utility services shall be provided, to protect public health and general welfare. Such regulations may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety **bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit** and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of the improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the bond, **surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit** by all proper remedies. The subdivision regulations shall be adopted, changed or amended, certified and filed as provided in section 64.815. The subdivision regulations shall be adopted, changed or amended only after a public hearing has been held thereon, public notice of which shall be given in the manner as provided for the hearing in section 64.815.

64.930. SPORTS COMPLEX COMMISSIONERS — TERMS — VACANCIES — COMPENSATION AND EXPENSES. — 1. The county sports complex authority shall consist of five commissioners who shall be qualified voters of the state of Missouri, and residents of such county. The commissioners of the county commission by a majority vote thereof shall submit

a panel of nine names to the governor who shall select with the advice and consent of the senate five commissioners from such panel, no more than three of which shall be of any one political party, who shall constitute the members of such authority; provided, however, that no elective or appointed official of any political subdivision of the state of Missouri shall be a member of the county sports complex authority.

2. The authority shall elect from its number a chairman and may appoint such officers and employees as it may require for the performance of its duties and fix and determine their qualifications, duties and compensation. No action of the authority shall be binding unless taken at a meeting at which at least three members are present and unless a majority of the members present at such meeting shall vote in favor thereof.

3. Such sports complex commissioners shall serve in the following manner: One for two years, one for three years, one for four years, one for five years, and one for six years. Successors shall hold office for terms of five years, or for the unexpired terms of their predecessors. Each sports complex commissioner shall hold office until his successor has been appointed and qualified.

4. In the event a vacancy exists a new panel of three names shall be submitted by majority vote of the county commission to the governor for appointment. All such vacancies shall be filled within thirty days from the date thereof. **If the county commission has not submitted a panel of three names to the governor within thirty days of the expiration of a commissioner's term, the governor shall immediately make an appointment to the commission with the advice and consent of the senate. In the event the governor does not appoint a replacement, no commissioner shall continue to serve beyond the expiration of that commissioner's term.**

5. The compensation of the sports complex commissioners to be paid by the authority shall be determined by the sports complex commissioners, but in no event shall exceed the sum of three thousand dollars per annum. In addition, the sports complex commissioners shall be reimbursed by the authority for the actual and necessary expenses incurred in the performance of their duties. **No commissioner shall continue to serve beyond the expiration of that commissioner's term.**

67.320. COUNTY ORDERS, VIOLATIONS MAY BE BROUGHT IN CIRCUIT COURT, WHEN — COUNTY MUNICIPAL COURT TO BE APPROVED, APPOINTMENT OF JUDGES, PROCEDURES (JEFFERSON COUNTY). — 1. Any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants may prosecute and punish violations of its county orders in the circuit court of such counties in the manner and to the extent herein provided or in a county municipal court if creation of a county municipal court is approved by order of the county commission. The county may adopt orders with penal provisions consistent with state law but only in the areas of traffic violations, solid waste management and animal control. Any county municipal court established pursuant to the provisions of this section shall have jurisdiction over violations of that county's orders and the ordinances of municipalities with which the county has a contract to prosecute and punish violations of municipal ordinances of the municipality.

2. In any county which has elected to establish a county municipal court pursuant to this section, the judges for such court shall be appointed by the county commission of such county, subject to confirmation by the legislative body of such county in the same manner as confirmation for other county appointed officers. The number of judges appointed, and qualifications for their appointment, shall be established by order of the commission.

3. The practice and procedure of each prosecution shall be conducted in compliance with all of the terms and provisions of sections 66.010 to 66.140, RSMo, except as provided for in this section.

4. Any use of the term ordinance in sections 66.010 to 66.140, RSMo, shall be synonymous with the term order for purposes of this section.

67.793. PETITION TO CREATE A REGIONAL RECREATIONAL DISTRICT — FILED WHERE — CONTENT — HEARING. — 1. Whenever the creation of a regional recreational district is desired, one hundred or more persons residing in the proposed district may file with the county clerk in which the greater part of the proposed district's population resides a petition requesting the creation of the regional recreational district. In case the proposed district is situated in two or more counties, the petition shall be filed in the office of the county clerk of the county in which the greater part of the proposed district's population resides, and the governing body of that county shall set the petition for public hearing and conduct such hearing. The petition shall set forth:

- (1) A description of the territory to be embraced in the proposed district;
- (2) The names of the municipalities located within the proposed district;
- (3) The name of the proposed district;
- (4) The population of the proposed district;
- (5) The assessed valuation of the proposed district;
- (6) The type and rate of tax proposed to be levied; and
- (7) A request that the question be submitted to the voters residing within the limits of the proposed regional recreational district whether they will establish a regional recreational district pursuant to the provisions of sections 67.792 to 67.799 to be known as ". . . Regional Recreational District" for the purpose of establishing, operating and maintaining public parks, neighborhood trails and recreational facilities within the boundaries of the district.

2. Whenever one hundred or more persons residing in an area contiguous to an existing regional recreational district desire to become part of that contiguous district, such persons may file a petition with the county clerk of the county in which the greater part of the population within the proposed addition to the district resides, and the governing body of that county shall set the petition for public hearing and conduct such hearing. The petition for the addition to a district shall set forth the same facts required for the creation of such a district pursuant to subdivisions (1) to (7) of subsection 1 of this section, except that:

- (1) Subdivision (6) of subsection 1 of this section shall only permit the imposition of a tax on the real property located within the addition to the district; and

- (2) Subdivision (7) of subsection 1 of this section shall, in the petition for the addition, be a request that the question be submitted to the voters residing within the limits of the proposed addition to the ". regional recreational district" as to whether or not they will become a part of the ". regional recreational district" for the purpose of establishing, operating and maintaining public parks, neighborhood trails and recreational facilities within the boundaries of such district.

3. The petition shall, after having been filed pursuant to this section, receive a hearing by the governing body of the county of filing pursuant to section 67.794.

4. The governing body of any county otherwise eligible to participate in a regional recreational district may directly authorize, by ordinance, the creation of a regional recreational district or an addition to an existing regional recreational district without the submission of a petition. The governing body of each such county shall, upon the enactment of such ordinance, submit the question of its approval to the voters in such county. If less than an entire county is proposed to participate in such a regional recreational district, the question may be submitted to the **registered and qualified** voters residing in the proposed [area, provided, that any regional recreational district which is supported by a sales tax shall be approved by the voters of the entire county] **district, or if no registered and qualified voters reside in the proposed district, to the owners of the real property located within the proposed district. Any ordinance adopted by the governing body creating a regional recreational district supported by a sales tax but with no registered and qualified voters residing within the proposed district**

boundaries shall be unanimously approved by the owners of real property within the proposed district. The proposed district shall consist only of those counties, or portions of counties, where the governing body has approved an ordinance to create a district.

67.799. REGIONAL RECREATIONAL DISTRICT MAY LEVY PROPERTY OR SALES TAX, PURPOSE — RATE OF TAX — ELECTION, BALLOT FORM — TAX, HOW COLLECTED — QUALIFIED VOTERS DEFINED. — 1. A regional recreational district may, by a majority vote of its board of directors, impose an annual property tax for the establishment and maintenance of public parks and recreational facilities and grounds within the boundaries of the regional recreational district not to exceed sixty cents per year on each one hundred dollars of assessed valuation on all property within the district, except that no such tax shall become effective unless the board of directors of the district submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax.

2. The question shall be submitted in substantially the following form:

Shall a cent tax per one hundred dollars assessed valuation be levied for public parks and recreational facilities?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have no power to impose the tax unless and until the board of directors of the district submits another proposal to authorize the tax and such proposal is approved by a majority of the qualified voters voting thereon.

3. The property tax authorized in subsections 1 and 2 of this section shall be levied and collected in the same manner as other ad valorem property taxes are levied and collected.

4. (1) A regional recreational district may, by a majority vote of its board of directors, impose a tax not to exceed one-half of one cent on all retail sales subject to taxation pursuant to sections 144.010 to 144.525, RSMo, for the purpose of funding the creation, operation and maintenance of public parks, recreational facilities and grounds within the boundaries of a regional recreational district. The tax authorized by this subsection shall be in addition to all other sales taxes allowed by law. No tax pursuant to this subsection shall become effective unless the board of directors submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax, and such tax shall become effective only after the majority of the voters voting on such tax approve such tax. [Only whole counties participating in a regional recreational district shall be able to impose a sales tax pursuant to this subsection.]

(2) In the event the district seeks to impose a sales tax pursuant to this subsection, the question shall be submitted in substantially the following form:

Shall a . . . cent sales tax be levied on all retail sales within the district for public parks and recreational facilities?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have no power to impose the tax unless and until another proposal to authorize the tax is submitted to the voters of the district and such proposal is approved by a majority of the qualified voters voting thereon. The provisions of sections 32.085 and 32.087, RSMo, shall apply to any tax approved pursuant to this subsection.

5. As used in this section, "qualified voters" or "voters" means any individuals residing within the proposed district who are eligible to be registered voters and who have registered to vote under chapter 115, RSMo, or, if no individuals eligible and registered to vote reside within the proposed district, all of the owners of real property located within

the proposed district who have unanimously petitioned for or consented to the adoption of an ordinance by the governing body imposing a tax authorized in this section. If the owner of the property within the proposed district is a political subdivision or corporation of the state, the governing body of such political subdivision or corporation shall be considered the owner for purposes of this section.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED.— The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants; [or]

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than two thousand six hundred but less than two thousand seven hundred inhabitants located in any county of the third classification without a township form of government and with more than fifteen thousand three hundred but less than fifteen thousand four hundred inhabitants; or

(26) Any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

67.1401. COMMUNITY IMPROVEMENT DISTRICT ACT, DEFINITIONS. — 1. Sections 67.1401 to 67.1571 shall be known and may be cited as the "Community Improvement District Act".

2. For the purposes of sections 67.1401 to 67.1571, the following words and terms mean:

(1) "Approval" or "approve", for purposes of elections pursuant to sections 67.1401 to 67.1571, a simple majority of those qualified voters voting in the election;

(2) "Assessed value", the assessed value of real property as reflected on the tax records of the county clerk of the county in which the property is located, or the collector of revenue if the property is located in a city not within a county, as of the last completed assessment;

(3) "Blighted area", an area which:

(a) By reason of the predominance of defective or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use; or

(b) Has been declared blighted or found to be a blighted area pursuant to Missouri law including, but not limited to, chapter 353, RSMo, sections 99.800 to 99.865, RSMo, or sections 99.300 to 99.715, RSMo;

(4) "Board", if the district is a political subdivision, the board of directors of the district, or if the district is a not-for-profit corporation, the board of directors of such corporation;

(5) "Director of revenue", the director of the department of revenue of the state of Missouri;

(6) "District", a community improvement district, established pursuant to sections 67.1401 to 67.1571;

(7) "Election authority", the election authority having jurisdiction over the area in which the boundaries of the district are located pursuant to chapter 115, RSMo;

(8) "Municipal clerk", the clerk of the municipality;

(9) "Municipality", any city located in a county of the first classification or second classification, **any unincorporated area that is located in any county with a charter form of government and with more than one million inhabitants**, any city not within a county and any county;

(10) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a district to carry out any of its powers, duties or purposes or to refund outstanding obligations;

(11) "Owner", for real property, the individual or individuals or entity or entities who own the fee of real property or their legally authorized representative; for business organizations and other entities, the owner shall be deemed to be the individual which is legally authorized to represent the entity in regard to the district;

(12) "Per capita", one head count applied to each individual, entity or group of individuals or entities having fee ownership of real property within the district whether such individual, entity or group owns one or more parcels of real property in the district as joint tenants, tenants in common, tenants by the entirety or tenants in partnership;

(13) "Petition", a petition to establish a district as it may be amended in accordance with the requirements of section 67.1421;

(14) "Qualified voters",

(a) For purposes of elections for approval of real property taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property which is to be subject to such real property taxes and is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, as of the thirtieth day prior to the date of the applicable election;

(b) For purposes of elections for approval of business license taxes or sales taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property located within the district per the tax records for real property of the county clerk as of the thirtieth day before the date of the applicable election; and

(c) For purposes of the election of directors of the board, registered voters and owners of real property which is not exempt from assessment or levy of taxes by the district and which is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, of the thirtieth day prior to the date of the applicable election; and

(15) "Registered voters", persons who reside within the district and who are qualified and registered to vote pursuant to chapter 115, RSMo, pursuant to the records of the election authority as of the thirtieth day prior to the date of the applicable election.

67.1706. DISTRICT TO DEVELOP, OPERATE AND MAINTAIN SYSTEM OF INTERCONNECTING TRAILS AND PARKS — POWER TO CONTRACT WITH OTHER PARKS. — The metropolitan district shall have as its [primary] duty the development, operation and maintenance of a public system of interconnecting trails and parks throughout the counties comprising the district. **Nothing in this section shall restrict the district's entering into and initiating projects dealing with parks not necessarily connected to trails.** The metropolitan district shall supplement but shall not substitute for the powers and responsibilities of the other parks and recreation systems within the metropolitan district **or other conservation and environmental regulatory agencies** and shall have the power to contract with other parks and recreation systems as well as with other public and private entities. **Nothing in this section shall give the metropolitan district authority to regulate water quality, watershed or land use issues in the counties comprising the district.**

67.1754. SALES TAX, HOW ALLOCATED. — The sales tax authorized in sections 67.1712 to 67.1721 shall be collected and allocated as follows:

(1) Fifty percent of the sales taxes collected from each county shall be deposited in the metropolitan park and recreational fund to be administered by the board of directors of the district to pay costs associated with the establishment, administration, operation and maintenance of public recreational facilities, parks, and public recreational grounds associated with the district. Costs for office administration beginning in the second fiscal year of district operations may be up to but shall not exceed fifteen percent of the amount deposited pursuant to this subdivision;

(2) Fifty percent of the sales taxes collected from each county shall be returned to the source county for park purposes, except that forty percent of such fifty percent amount shall be reserved for distribution to municipalities within the county in the form of grant revenue sharing funds. Each county in the district shall establish its own process for awarding the grant proceeds to its municipalities for park purposes **provided the purposes of such grants are consistent with the purpose of the district.** In the case of a county of the first classification with a charter form of government having a population of at least nine hundred thousand inhabitants, such grant proceeds shall be awarded to municipalities by a municipal grant commission as described in section 67.1757.

67.2000. CREATION OF AN EXHIBITION CENTER AND RECREATIONAL FACILITY DISTRICT, PETITION, HEARING, BALLOT FORM — BOARD OF TRUSTEES, POWERS — TRUST FUND CREATED — SALES TAX AUTHORIZATION, PROCEDURE — DISSOLUTION OF DISTRICT (BUCHANAN, CAMDEN, COLE, GREENE, JEFFERSON, MILLER, MORGAN, NEWTON, AND WRIGHT COUNTIES). — 1. This section shall be known as the "Exhibition Center and Recreational Facility District Act".

2. Whenever not less than fifty owners of real property located within any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, or any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants, or any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants, or any county of the second classification with more than fifty-two thousand six hundred but less than fifty-two thousand seven hundred inhabitants, or any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants, or any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants, or any county of the first classification with more than thirty-seven thousand but less than thirty-seven thousand one hundred inhabitants, or any county of the third classification without a township form of government and with more than twenty-three thousand five hundred but less than twenty-three thousand six hundred inhabitants, or any county of the third classification without a township form of government and with more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants, or any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants, desire to create an exhibition center and recreational facility district, the property owners shall file a petition with the governing body of each county located within the boundaries of the proposed district requesting the creation of the district. The district boundaries may include all or part of the counties described in this section. The petition shall contain the following information:

(1) The name and residence of each petitioner and the location of the real property owned by the petitioner;

(2) A specific description of the proposed district boundaries, including a map illustrating the boundaries; and

(3) The name of the proposed district.

3. Upon the filing of a petition pursuant to this section, the governing body of any county described in this section may, by resolution, approve the creation of a district. Any resolution to establish such a district shall be adopted by the governing body of each county located within the proposed district, and shall contain the following information:

(1) A description of the boundaries of the proposed district;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The proposed sales tax rate to be voted on within the proposed district; and

(4) The proposed uses for the revenue generated by the new sales tax.

4. Whenever a hearing is held as provided by this section, the governing body of each county located within the proposed district shall:

(1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Rule upon all protests, which determinations shall be final.

5. Following the hearing, if the governing body of each county located within the proposed district decides to establish the proposed district, it shall adopt an order to that effect; if the governing body of any county located within the proposed district decides to not establish the proposed district, the boundaries of the proposed district shall not include that county. The order shall contain the following:

- (1) The description of the boundaries of the district;
- (2) A statement that an exhibition center and recreational facility district has been established;
- (3) The name of the district;
- (4) The uses for any revenue generated by a sales tax imposed pursuant to this section; and
- (5) A declaration that the district is a political subdivision of the state.

6. A district established pursuant to this section may, at a general, primary, or special election, submit to the qualified voters within the district boundaries a sales tax of one-fourth of one percent, for a period not to exceed twenty-five years, on all retail sales within the district, which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities. The ballot of submission shall be in substantially the following form:

Shall the (name of district) impose a sales tax of one-fourth of one percent to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities, for a period of (insert number of years)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast in the portion of any county that is part of the proposed district favor the proposal, then the sales tax shall become effective in that portion of the county that is part of the proposed district on the first day of the first calendar quarter immediately following the election. If a majority of the votes cast in the portion of a county that is a part of the proposed district oppose the proposal, then that portion of such county shall not impose the sales tax authorized in this section until after the county governing body has submitted another such sales tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a sales tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters pursuant to this section sooner than twelve months from the date of the last proposal submitted pursuant to this section. If the qualified voters in two or more counties that have contiguous districts approve the sales tax proposal, the districts shall combine to become one district.

7. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated pursuant to this section consisting of four individuals to represent each county approving the district, as provided in this subsection. The governing body of each county located within the district, upon approval of that county's sales tax proposal, shall appoint four members to the board of trustees; at least one shall be an owner of a nonlodging business located within the taxing district, or their designee, at least one shall be an owner of a lodging facility located within the district, or their designee, and all members shall reside in the district except that one nonlodging business owner, or their designee, and one lodging facility owner, or their designee, may reside outside the district. Each trustee shall be at least twenty-five years of age and a resident of this state. Of the initial trustees appointed from each county, two shall hold office for two years, and two shall hold office for four years. Trustees appointed after expiration of the initial terms shall be appointed to a four-year term by the governing body of the county the trustee represents, with the initially appointed trustee to remain in office until a successor is appointed, and shall take office upon being appointed. Each trustee may be reappointed. Vacancies shall be filled in the same manner in which the trustee vacating the office was originally appointed. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall

elect a chair and other officers necessary for its membership. Trustees may be removed if:

(1) By a two-thirds vote, the board moves for the member's removal and submits such motion to the governing body of the county from which the trustee was appointed; and

(2) The governing body of the county from which the trustee was appointed, by a majority vote, adopts the motion for removal.

8. The board of trustees shall have the following powers, authority, and privileges:

(1) To have and use a corporate seal;

(2) To sue and be sued, and be a party to suits, actions, and proceedings;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a single exhibition center and recreational facilities or to assist in such activity. "Recreational facilities", means locations explicitly designated for public use where the primary use of the facility involves participation in hobbies or athletic activities;

(4) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property and income of the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property of the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine;

(5) To acquire, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(6) To refund any bonds, notes or other obligations of the district without an election. The terms and conditions of refunding obligations shall be substantially the same as those of the original issue, and the board shall provide for the payment of interest at not to exceed the legal rate, and the principal of such refunding obligations in the same manner as is provided for the payment of interest and principal of obligations refunded;

(7) To have the management, control and supervision of all the business and affairs of the district, and the construction, installation, operation, and maintenance of district improvements therein; to collect rentals, fees, and other charges in connection with its services or for the use of any of its facilities;

(8) To hire and retain agents, employees, engineers, and attorneys;

(9) To receive and accept by bequest, gift, or donation any kind of property;

(10) To adopt and amend bylaws and any other rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects, and affairs of the board and of the district; and

(11) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this section.

9. There is hereby created the "Exhibition Center and Recreational Facility District Sales Tax Trust Fund", which shall consist of all sales tax revenue collected pursuant to this section. The director of revenue shall be custodian of the trust fund, and moneys in the trust fund shall be used solely for the purposes authorized in this section. Moneys in the trust fund shall be considered nonstate funds pursuant to section 15, article IV, constitution of Missouri. The director of revenue shall invest moneys in the trust fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the trust fund. All sales taxes collected by the director of revenue pursuant to this section on behalf of the district, less one percent for the cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the trust fund. The director of revenue shall keep accurate records of the amount of moneys in the trust fund which was collected in the district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of the officers of each district and the general public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district. The director of revenue may authorize refunds from the amounts in the trust fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district.

10. The sales tax authorized by this section is in addition to all other sales taxes allowed by law. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, apply to the sales tax imposed pursuant to this section.

11. Any sales tax imposed pursuant to this section shall not extend past the initial term approved by the voters unless an extension of the sales tax is submitted to and approved by the qualified voters in each county in the manner provided in this section. Each extension of the sales tax shall be for a period not to exceed twenty years. The ballot of submission for the extension shall be in substantially the following form:

Shall the (name of district) extend the sales tax of one-fourth of one percent for a period of (insert number of years) years to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast favor the extension, then the sales tax shall remain in effect at the rate and for the time period approved by the voters. If a sales tax extension is not approved, the district may submit another sales tax proposal as authorized in this section, but the district shall not submit such a proposal to the voters sooner than twelve months from the date of the last extension submitted.

12. Once the sales tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the sales tax. The sales tax shall not be abolished or terminated while the district has any financing or other obligations outstanding; provided that any new financing, debt, or other obligation or any restructuring or refinancing of an existing debt or obligation incurred more than ten years after voter approval of the sales tax provided in this section or more than ten years after any voter approved extension thereof shall not cause the extension of the sales tax provided in this section or

cause the final maturity of any financing or other obligations outstanding to be extended. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities. If the district abolishes the sales tax, the district shall notify the director of revenue of the action at least ninety days before the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the sales tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the sales tax in the district, the director of revenue shall remit the balance in the account to the district and close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

13. In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district.

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS (ST. CHARLES COUNTY). — 1. The governing body of any city, town, or village that is within a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505.

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture

series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The timeframe and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as

provided by this subsection. The governing body of the municipality approving a resolution as set forth in subsection 7 of this section shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in subsection 7 of this section, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax, by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, a circuit court with jurisdiction over any city, town, or village that is within a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515.

67.2515. PETITION, CONTENTS, NOTICE — HEARING — DISTRICT DECLARED ORGANIZED, WHEN. — 1. Whenever the creation of a theater, cultural arts, and entertainment district is desired, one or more registered voters from each subdistrict of the proposed district, or if there are no registered voters in a subdistrict, one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district may file a petition with the circuit court requesting the creation of a theater, cultural arts, and entertainment district. The petition shall contain the following information:

- (1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;
- (2) The name of the proposed district;
- (3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;
- (4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;
- (5) A request that the district be established;
- (6) A general description of the activities that are planned for the district;
- (7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposing of the sales tax be submitted to the qualified voters within the district;
- (8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;
- (9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;
- (10) A signed statement that the petitioners are authorized to submit the petition to the circuit court; and
- (11) Any other items the petitioners deem appropriate.

2. The circuit clerk of the county in which the petition is filed pursuant to this section shall present the petition to the judge, who shall thereupon set the petition for hearing not less than thirty days nor more than forty days after the filing. The judge shall cause publication of the notice of the hearing on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing. The notice shall recite the following information:

- (1) A description of the boundaries of the proposed district and each subdistrict;
 - (2) The time and place of a hearing to be held to consider establishment of the proposed district;
 - (3) The timeframe and manner for the filing of the petitions or answers in the case;
 - (4) The proposed sales tax rate to be voted on within the subdistricts of the proposed district;
 - (5) The proposed uses for the revenue generated by the new sales tax; and
-

(6) Such other matters as the circuit court may deem appropriate.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

3. Any registered voter or owner of real property within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a judgment respecting these same issues; provided, however, that all pleadings must be filed with the court no later than five days before the case is heard.

4. The court shall hear the case without a jury. If the court determines the petition is defective or the proposed district or its plan of operation is unconstitutional, it shall enter its judgment to that effect and shall refuse to incorporate the district as requested in the pleadings. If the court determines the petition is not legally defective and the proposed district and plan of operation are not unconstitutional, the court shall order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the circuit clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the circuit judge. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

5. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the circuit judge shall establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by issuing an order to that effect. The court shall determine and declare the district organized and incorporated and issue an order that includes the following:

- (1) The description of the boundaries of the district and each subdistrict;
- (2) A statement that a theater, cultural arts, and entertainment district has been established;
- (3) A declaration that the district is a political subdivision of the state;
- (4) The name of the district;
- (5) The date on which the sales tax election in the subdistricts was held, and the result of the election;
- (6) The uses for any revenue generated by a sales tax imposed pursuant to this section;
- (7) A certification to the newly created district of the election results, including the election concerning the sales tax; and
- (8) Such other matters as the circuit court deems appropriate.

6. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax in the proposed subdistrict before the voters of a proposed subdistrict, and the circuit clerk shall conduct the subsequent election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

7. Any party having filed a petition or answer to a petition may appeal the circuit court's order or judgment in the same manner as provided for other appeals. Any order

either refusing to incorporate the district or incorporating the district shall be a final judgment for purposes of appeal.

67.2520. ELECTION CONDUCTED, WHEN — SALES TAX VOTE, AMOUNT — BALLOT FORM. — 1. If a governing body or circuit court judge has certified the question regarding the district creation and sales tax funding for voter approval, the municipal clerk in which the district is located, or the circuit clerk if the order and certification has been by a circuit judge, shall conduct the election. The questions shall be submitted to the qualified voters of each subdistrict within the district boundaries who have filed an application pursuant to this section. The municipal clerk, or the circuit clerk if the district is being formed by the circuit court, shall publish notice of the election in at least one newspaper of general circulation in the county where the proposed district is located, with the publication to occur not more than fifteen days but not less than ten days before the date when applications for ballots will be accepted. The notice shall include a description of the district boundaries, the timeframe and manner of applying for a ballot, the questions to be voted upon, and where and when applications for ballots will be accepted. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall also send a notice of the election to all registered voters in the proposed district, which shall include the information in the published notice. The costs of printing and publication of the notice, and mailing of the notices to registered voters, shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

2. For elections held in subdistricts pursuant to this section, if all the owners of property in a subdistrict joined in the petition for formation of the district, such owners may cast their ballot by unanimous petition approving any measure submitted to them as subdistrict voters pursuant to this section. Each owner shall receive one vote per acre owned. Fractional votes shall be allowed. The petition shall be submitted to the municipal clerk, or the circuit court clerk if the district is being formed by the circuit court, who shall verify the authenticity of all signatures thereon. The filing of a unanimous petition shall constitute an election in the subdistrict under this section and the results of said election shall be entered pursuant to this section.

3. The sales tax shall be not more than one-half of one percent on all retail sales within the district, which are subject to taxation pursuant to section 67.2530, to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

4. Application for a ballot shall be made as provided in this subsection:

(1) Persons entitled to apply for a ballot in an election shall be:

(a) A resident registered voter of the district; or

(b) If there are no registered voters in a subdistrict, a person, including a corporation or other entity, which owns real property within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. Each property owner shall receive one vote;

(2) Only persons entitled to apply for a ballot in elections pursuant to this subsection shall apply. Such persons shall apply with the municipal clerk, or the circuit clerk if the district is formed by the circuit court. Each person applying shall provide:

(a) Such person's name, address, mailing address, and phone number;

- (b) An authorized signature; and
- (c) Evidence that such person is entitled to vote. Such evidence shall be a copy of:
 - a. For resident individuals, proof of registration from the election authority;
 - b. For owners of real property, a tax receipt or deed or other document which evidences an equitable ownership, and identifies the real property by location;
- (3) Applications for ballot applications shall be made not later than the fourth Tuesday before the ballots are mailed to qualified electors. The ballot of submission shall be in substantially the following form:

"Shall there be organized in (here specifically describe the proposed district boundaries), within the state of Missouri, a district, to be known as the "..... Theater, Cultural Arts, and Entertainment District" for the purpose of funding, promoting, and providing educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and funding, promoting, planning, designing, constructing, improving, maintaining, and operating public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Shall the (name of district) impose a sales tax of (insert rate) to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO";

(4) Not sooner than the fourth Tuesday after the deadline for applying for ballots, the municipal clerk, or the circuit clerk if the district is being formed by the circuit court, shall mail a ballot to each qualified voter who applied for a ballot pursuant to this subsection along with a return addressed envelope directed to the municipal clerk or the circuit clerk's office, with a sworn affidavit on the reverse side of such envelope for the voter's signature. Such affidavit shall be in the following form:

"I hereby declare under penalties of perjury that I am qualified to vote, or to affix my authorized signature in the name of an entity which is entitled to vote, in this election.

Authorized Signature

Printed Name of Voter Signature of notary or other officer authorized to administer oaths.

..... Mailing Address of Voter (if different)

Subscribed and sworn to before me this day of....., 20.."

(5) Each qualified voter shall have one vote, except as provided for in section 67.2520. Each voted ballot shall be signed with the authorized signature as provided for in this subsection;

(6) Voted ballots shall be returned to the municipal clerk, or the clerk of the circuit court if the district is being formed by the circuit court, by mail or hand delivery no later than 5:00 p.m. on the fourth Tuesday after the date for mailing the ballots. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall transmit all voted ballots to a team of judges of not less than four, with an equal number from each of the two major political parties. The judges shall be selected by the city, town, or village, or the circuit clerk, from lists compiled by the county election authority. Upon receipt of the voted ballots the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the governing body of the city, town, or village for further

action, or the circuit judge for further action if the district is being formed by the circuit court. Any voter who applied for such election may contest the result in the same manner as provided in chapter 115, RSMo.

67.2525. BOARD OF DIRECTORS, QUALIFICATIONS — SUBDIVISION OF DISTRICT, HOW — POWERS AND DUTIES OF THE BOARD. — 1. Each member of the board of directors shall have the following qualifications:

(1) As to those subdistricts in which there are registered voters, a resident registered voter in the subdistrict that he or she represents, or be a property owner or, as to those subdistricts in which there are not registered voters who are residents, a property owner or representative of a property owner in the subdistrict he or she represents;

(2) Be at least twenty-one years of age and a registered voter in the district.

2. The district shall be subdivided into at least five, but not more than fifteen subdistricts, which shall be represented by one representative on the district board of directors. All board members shall have terms of four years, including the initial board of directors. All members shall take office upon being appointed and shall remain in office until a successor is appointed by the mayor or chairman of the municipality in which the district is located, or elected by the property owners in those subdistricts without registered voters.

3. For those subdistricts which contain one or more registered voters, the mayor or chairman of the city, town, or village shall, with the consent of the governing body, appoint a registered voter residing in the subdistrict to the board of directors.

4. For those subdistricts which contain no registered voters, the property owners who collectively own one or more parcels of real estate comprising more than half of the land situated in each subdistrict shall meet and shall elect a representative to serve upon the board of directors. The clerk of the city, town, or village in which the petition was filed shall, unless waived in writing by all property owners in the subdistrict, give notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, to call a meeting of the owners of real property within the subdistrict at a day and hour specified in a public place in the city, town, or village in which the petition was filed for the purpose of electing members of the board of directors.

5. The property owners, when assembled, shall organize by the election of a temporary chairman and secretary of the meeting who shall conduct the election. An election shall be conducted for each subdistrict, with the eligible property owners voting in that subdistrict. At the election, each acre of real property within the subdistrict shall represent one share, and each owner, including corporations and other entities, may have one vote in person or for every acre of real property owned by such person within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. The results of the meeting shall be certified by the temporary chairman and secretary to the municipal clerk if the district is established by a municipality described in this section, or to the circuit clerk if the district is established by a circuit court.

6. Successor boards shall be appointed or elected, depending upon the presence or absence of resident registered voters, by the mayor or chairman of a city, town, or village described in this section, or the property owners as set forth above; provided, however, that elections held by the property owners after the initial board is elected shall be certified

to the municipal clerk of the city, town, or village where the district is located and the board of directors of the district.

7. Should a vacancy occur on the board of directors, the mayor or chairman of the city, town, or village if there are registered voters within the subdistrict, or a majority of the owners of real property in a subdistrict if there are not registered voters in the subdistrict, shall have the authority to appoint or elect, as set forth in this section, an interim director to complete any unexpired term of a director caused by resignation or disqualification.

8. The board shall possess and exercise all of the district's legislative and executive powers, including:

(1) The power to fund, promote and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities within the district;

(2) The power to accept and disburse tax or other revenue collected in the district; and

(3) The power to receive property by gift or otherwise.

9. Within thirty days after the selection of the initial directors, the board shall meet. At its first meeting and annually thereafter the board shall elect a chairman from its members.

10. The board shall appoint an executive director, district secretary, treasurer, and such other officers or employees as it deems necessary.

11. At the first meeting, the board, by resolution, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal.

12. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board, and approve any board resolution.

13. At the first meeting, the board, by resolution, shall receive the certification of the election regarding the sales tax, and may impose the sales tax in all subdistricts approving the imposing sales tax. In those subdistricts that approve the sales tax, the sales tax shall become effective on the first day of the first calendar quarter immediately following the action by the district board of directors imposing the tax.

14. Each director shall devote such time to the duties of the office as the faithful discharge thereof and may require and be reimbursed for his actual expenditures in the performance of his duties on behalf of the district. Directors may be compensated, but such compensation shall not exceed one hundred dollars per month.

15. In addition to all other powers granted by sections 67.2500 to 67.2530, the district shall have the following general powers:

(1) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;

(2) To fix compensation of its employees and contractors;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation, interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a district facility or to assist in such activity;

(4) To acquire, develop, construct, equip, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(5) To collect and disburse funds for its activities;

(6) To collect taxes and other revenues;

(7) To borrow money and incur indebtedness and evidence the same by certificates, notes, bonds, debentures, or refunding of any such obligations for the purpose of paying all or any part of the cost of land, construction, development, or equipping of any facilities or operations of the district;

(8) To own or lease real or personal property for use in connection with the exercise of powers pursuant to this subsection;

(9) To provide for the election or appointment of officers, including a chairman, treasurer, and secretary. Officers shall not be required to be residents of the district, and one officer may hold more than one office;

(10) To hire and retain agents, employees, engineers, and attorneys;

(11) To enter into entertainment contracts binding the district and artists, agencies, or performers, management contracts, contracts relating to the booking of entertainment and the sale of tickets, and all other contracts which relate to the purposes of the district;

(12) To contract with a local government, a corporation, partnership, or individual regarding funding, promotion, planning, designing, constructing, improving, maintaining, or operating a project or to assist in such activity;

(13) To contract for transfer to a city, town, or village such district facilities and improvements free of cost or encumbrance on such terms set forth by contract;

(14) To exercise such other powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

16. A district may at any time authorize or issue notes, bonds, or other obligations for any of its powers or purposes. Such notes, bonds, or other obligations:

(1) Shall be in such amounts as deemed necessary by the district, including costs of issuance thereof;

(2) Shall be payable out of all or any portion of the revenues or other assets of the district;

(3) May be secured by any property of the district which may be pledged, assigned, mortgaged, or otherwise encumbered for payment;

(4) Shall be authorized by resolution of the district, and if issued by the district, shall bear such date or dates, and shall mature at such time or times, but not in excess of forty years, as the resolution shall specify;

(5) Shall be in such denomination, bear interest at such rates, be in such form, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places and subject to redemption as such resolution may provide; and

(6) May be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

The provisions of this subsection are applicable to the district notwithstanding the provisions of section 108.170, RSMo.

67.2530. REFUND OF DISTRICT INDEBTEDNESS, WHEN, HOW — IMPOSITION OF A SALES TAX AUTHORIZED — DEPOSIT AND USE OF SALES TAX REVENUE — REPEAL OF SALES TAX, BALLOT FORM. — 1. Any note, bond, or other indebtedness of the district may be refunded at any time by the district by issuing refunding bonds in such amount as the district may deem necessary. Such bonds shall be subject to, and shall have the benefit of the foregoing provisions regarding notes, bonds, and other obligations. Without limiting the generality of the foregoing, refunding bonds may include amounts necessary to finance any premium, unpaid interest, and costs of issuance in connection with the refunding bonds. Any such refunding may be effected whether the bonds to be refunded then shall have matured or thereafter shall mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations being refunded or the

exchange of the refunding bonds for the obligations being refunded with the consent of the holders of the obligations being refunded.

2. Notes, bonds, or other indebtedness of the district shall be exclusively the responsibility of the district payable solely out of the district funds and property and shall not constitute a debt or liability of the state of Missouri or any agency or political subdivision of the state. Any notes, bonds, or other indebtedness of the district shall state on their face that they are not obligations of the state of Missouri or any agency or political subdivision thereof other than the district.

3. Any district may by resolution impose a district sales tax of up to one half of one percent on all retail sales made in such district that are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon voter approval, and receiving the necessary certifications from the governing body of the municipality in which the district is located, or from the circuit court if the district was formed by the circuit court, the board of directors shall have the power to impose a sales tax at its first meeting, or any meeting thereafter. Voter approval of the question of the imposing sales tax shall be in accordance with section 67.2520 of this section. The sales tax shall become effective in those subdistricts that approve the sales tax on the first day of the first calendar quarter immediately following the passage of a resolution by the board of directors imposing the sales tax.

4. In each district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the district pursuant to this section to the retailer's sale price, and when so added, such tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

5. In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285, RSMo.

6. All revenue received by a district from the sales tax authorized by this section shall be deposited in a special trust fund and shall be used solely for the purposes of the district. Any funds in such special trust fund which are not needed for the district's current expenditures may be invested by the district board of directors in accordance with applicable laws relating to the investment of other district funds.

7. The sales tax may be imposed at a rate of up to one half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo. Any district sales tax imposed pursuant to this section shall be imposed at a rate that shall be uniform throughout the subdistricts approving the sales tax.

8. The resolution imposing the sales tax pursuant to this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax and the tax shall be reported and returned to and collected by the district.

9. (1) On and after the effective date of any sales tax imposed pursuant to this section, the district shall perform all functions incident to the administration, collection, enforcement, and operation of the tax. The sales tax imposed pursuant to this section shall

be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the district.

(2) All such sales taxes collected by the district shall be deposited by the district in a special fund to be expended for the purposes authorized in this section. The district shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to the inspection of officers of each district and the general public.

(3) The district may contract with the municipality that the district is within for the municipality to collect any revenue received by the district and, after deducting the cost of such collection, but not to exceed one percent of the total amount collected, deposit such revenue in a special trust account. Such revenue and interest may be applied by the municipality to expenses, costs, or debt service of the district at the direction of the district as set forth in a contract between the municipality and the district.

10. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.

(2) All exemptions granted to agencies of government, organizations, persons, and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section.

(3) The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

(4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made applicable to any taxes collected pursuant to the provisions of this section.

(5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for violation of those sections are hereby made applicable to violations of this section.

(6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all retail sales shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

(7) Subsequent to the initial approval by the voters and implementation of a sales tax in the district, the rate of the sales tax may be increased, but not to exceed a rate of one-half of one percent on retail sales as provided in this subsection. The election shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the increase of the sales tax before the voters of the district by resolution, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district, shall conduct the subsequent

election. In subsequent elections, the election judges shall certify the election results to the district board of directors. The ballot of submission shall be in substantially the following form:

"Shall (name of district) increase the (insert amount) percent district sales tax now in effect to..... (insert amount) in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the increase, the increase shall become effective December thirty-first of the calendar year in which such increase was approved.

11. (1) There shall not be any election as provided for in this section while the district has any financing or other obligations outstanding.

(2) The board, when presented with a petition signed by at least one-third of the registered voters in a district that voted in the last gubernatorial election, or signed by at least two-thirds of property owners of the district, calling for an election to dissolve and repeal the tax shall submit the question to the voters using the same procedure by which the imposing tax was voted. The ballot of submission shall be in substantially the following form:

"Shall (name of district) dissolve and repeal the (insert amount) percent district sales tax now in effect in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Such subsequent elections for the repeal of the sales tax shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the repeal of the sales tax before the voters of the district, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district, shall conduct the subsequent election. In subsequent elections the election judges shall certify the election results to the district board of directors.

(3) If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the district's indebtedness, whichever occurs later.

12. (1) At such time as the board of directors of the district determines that further operation of the district is not in the best interests of the inhabitants of the district, and that the district should dissolve, the board shall submit for a vote in an election held throughout the district the question of whether the district should be abolished. The question shall be submitted in substantially the following form:

"Shall the theater, cultural arts, and entertainment district be abolished?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(2) The district board shall not propose the question to abolish the district while there are outstanding claims or causes of action pending against the district, while the district liabilities exceed its assets, while indebtedness of the district is outstanding, or while the district is insolvent, in receivership or under the jurisdiction of the bankruptcy court. Prior to submitting the question to abolish the district to a vote of the entire district, the state auditor shall audit the district to determine the financial status of the district, and whether the district may be abolished pursuant to law. The vote on the abolition of the

district shall be conducted by the municipal clerk of the city, town, or village in which the district is located. The procedure shall be the same as in section 67.2520, except that the question shall be determined by the qualified voters of the entire district. No individual subdistrict may be abolished, except at such time as the district is abolished.

(3) While the district still exists, it shall continue to accrue all revenues to which it is entitled at law.

(4) Upon receipt by the board of directors of the district of the certification by the city, town, or village in which the district is located that the majority of those voting within the entire district have voted to abolish the district, and if the state auditor has determined that the district's financial condition is such that it may be abolished pursuant to law, then the board of directors of the district shall:

(a) Sell any remaining district real or personal property it wishes, and then transfer the proceeds and any other real or personal property owned by the district to the city, town, or village in which the district is located, including revenues due and owing the district, for its further use and disposition;

(b) Terminate the employment of any remaining district employees, and otherwise conclude its affairs;

(c) At a public meeting of the district, declare by a resolution of the board of directors passed by a majority vote that the district has been abolished effective that date;

(d) Cause copies of that resolution under seal to be filed with the secretary of state and the city, town, or village in which the district is located. Upon the completion of the final act specified in this subsection, the legal existence of the district shall cease.

(5) The legal existence of the district shall not cease for a period of two years after voter approval of the abolition.

70.225. EMERGENCY DISPATCHING SYSTEM, ELIGIBLE FOR MEMBERSHIP IN LOCAL GOVERNMENT RETIREMENT SYSTEM, WHEN (ST. LOUIS COUNTY). — 1. Notwithstanding the provisions of section 70.600 to the contrary, a centralized emergency dispatching system created by a joint municipal agreement under section 70.220 existing within any county with a charter form of government and with more than one million inhabitants, may be considered a political subdivision for the purposes of sections 70.600 to 70.755, and employees of the centralized emergency dispatching system shall be eligible for membership in the Missouri local government employees' retirement system upon the centralized emergency dispatching system becoming an employer as defined in subdivision (11) of section 70.600.

2. Any political subdivision participating in a centralized emergency dispatching system granted membership under subsection 1 of this section, shall be subject to the delinquent recovery procedures under section 70.735 for any contribution payments due the system. Any political subdivision withdrawing from membership shall be subject to payments for any unfunded liabilities existing for its past and current employees. Any political subdivision becoming a new member shall be subject to the same terms and conditions then existing including liabilities in proportion to all participating political subdivisions.

89.410. REGULATIONS GOVERNING SUBDIVISION OF LAND, LIMITATIONS, CONTENTS — PUBLIC HEARING — ESCROW FUNDS, WHEN RELEASED. — 1. The planning commission shall recommend and the council may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the city, town or village; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the city plan or official map of the city, town or village; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and

traffic; provided that, the city, town or village may only impose requirements [and] **for the posting of bonds [regarding], letters of credit or escrows for subdivision-related [regulations] improvements** as provided for in subsections 2 to [4] **5** of this section.

2. The regulation may include requirements as to the extent and the manner in which the streets of the subdivision or any designated portions thereto shall be graded and improved as well as including requirements as to the extent and manner of the installation of all utility facilities. Compliance with all of these requirements is a condition precedent to the approval of the plat. The regulations or practice of the council may provide for the tentative approval of the plat previous to the improvements and utility installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the council [may] **shall accept [a], at the option of the developer, an escrow secured with cash or an irrevocable letter of credit deposited with the city, town, or village. The city, town, or village may accept a surety bond [or escrow], and such bond shall be** in an amount and with surety and other reasonable conditions, providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the bond[; provided that,]. The release of **any** such escrow, **letter of credit, or bond** by the city, town or village shall be as specified in this section. The council may enforce the **escrow or bond** by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the council is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the city plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

3. **The regulations shall provide that in the event a developer who has posted an escrow, or letter of credit, or bond with a city, town, or village in accordance with subsection 2 of this section transfers title of the subdivision property prior to full release of the escrow, letter of credit, or bond, the municipality shall accept a replacement escrow or letter of credit from the successor developer in the form allowed in subsection 2 of this section and in the amount of the escrow or letter of credit held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement escrow or letter of credit, the city, town, or village shall release the original escrow or letter of credit in full and release the prior developer from all further obligations with respect to the subdivision improvements if the successor developer assumes all of the outstanding obligations of the previous developer. The city, town, or village may accept a surety bond from the successor developer in the form allowed in subsection 2 of this section and in the amount of the bond held by the city, town, or village at the time of the property transfer, and upon receipt of the replacement bond, the city, town, or village shall release the original bond in full, and release the prior developer from all further obligations with respect to the subdivision improvements.**

4. The regulations shall provide that any escrow **or bond** amount held by the city, town or village to secure actual construction and installation on each component of the improvements or utilities shall be released within thirty days of completion of each category of improvement or utility work to be installed, minus a maximum retention of five percent which shall be released upon completion of all improvements and utility work. **The city, town, or village shall inspect each category of improvement or utility work within twenty business days after a request for such inspection.** Any such category of improvement or utility work shall be deemed to be completed upon certification by the city, town or village that the project is complete in accordance with the ordinance of the city, town or village including the filing of all documentation and certifications required by the city, town or village, in complete and acceptable

form. The release shall be deemed effective when the escrow funds **or bond amount** are duly posted with the United States Postal Service or other agreed-upon delivery service or when the escrow funds **or bond amount** are hand delivered to an authorized person or place as specified by the owner or developer.

[4.] **5.** If the city, town or village has not released the escrow funds **or bond amount** within thirty days as provided in this section **or provided a timely inspection of the improvements or utility work after request for such inspection**, the city, town or village shall pay the owner or developer in addition to the escrow funds due the owner or developer, interest at the rate of one and one-half percent per month calculated from the expiration of the thirty-day period until the escrow funds **or bond amount** have been released. Any owner or developer aggrieved by the city's, town's or village's failure to observe the requirements of this section may bring a civil action to enforce the provisions of this section. In any civil action or part of a civil action brought pursuant to this section, the court may award the prevailing party or the city, town or village the amount of all costs attributable to the action, including reasonable attorneys' fees.

[5.] **6.** Nothing in this section shall apply to performance, maintenance and payment bonds required by cities, towns or villages.

[6.] **7.** Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the council.

8. The provisions of subsection 2 of this section requiring the acceptance of an escrow secured by cash or an irrevocable letter of credit, rather than a surety bond, at the option of the developer, all of the provisions of subsection 3 of this section, and the provisions of subsections 4 and 5 of this section regarding an inspection of improvements or utility work within twenty business days shall not apply to any home rule city with more than four hundred thousand inhabitants and located in more than one county.

9. Notwithstanding the provisions of section 290.210, RSMo, to the contrary, improvements secured by escrow, letter of credit, or bond as provided in this section shall not be subject to the terms of sections 290.210 to 290.340, RSMo, unless they are paid for wholly or in part out of public funds.

137.100. CERTAIN PROPERTY EXEMPT FROM TAXES. — The following subjects are exempt from taxation for state, county or local purposes:

- (1) Lands and other property belonging to this state;
 - (2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments, and on public squares and lots kept open for health, use or ornament;
 - (3) Nonprofit cemeteries;
 - (4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state, including not-for-profit agribusiness associations;
 - (5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;
 - (6) Household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place; [and]
 - (7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision; **and**
 - (8) **Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, to another for which or whom such property is not exempt when**
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immediately after the lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for reverters, the property must revert back to the interstate compact agency. Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:

- (a) The right of the interstate compact agency to use, control, and possess the property is terminated;
- (b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and
- (c) There is no provisions for reverter of the property within the limitation period for reverters.

137.298. CITIES MAY PASS ORDINANCE TO INCLUDE CHARGES FOR OUTSTANDING PARKING TICKETS ON PERSONAL PROPERTY TAX BILL — PERSONAL PROPERTY TAX RECEIPT, ISSUED WHEN — CITIES MAY ENTER INTO AGREEMENTS WITH COUNTY TO INCLUDE OUTSTANDING VEHICLE-RELATED FEES AND FINES ON PERSONAL PROPERTY TAX BILL. — 1. Other provisions of law to the contrary notwithstanding, any city may by ordinance include as a charge on bills issued for personal property taxes any outstanding parking violations issued on any vehicle for which personal property tax is to be paid and, if required by ordinance, such charge shall be collected with and in the same payment as personal property taxes are collected by the collector of revenue of such city. No personal property tax bill shall be considered paid unless all charges for parking violations are also paid in full and the collector of revenue shall not issue a paid personal property receipt until all such charges are paid.

2. Any city or city not within a county may enter into a contract or cooperative agreement with the county governing body and county collector of any county with a charter form of government or any county of the first classification to include as a charge on bills issued for personal property taxes any outstanding vehicle-related fees and fines, including traffic violations, assessed or issued on any vehicle for which personal property tax is to be paid. For the purpose of this section, vehicle-related fees and fines shall include, but not be limited to, traffic violation fines, parking violation fines, towing and vehicle immobilization fees, and any late payment penalties and court costs associated with adjudication or collection of those fines. No personal property tax bill shall be considered paid unless all charges for parking violations and other vehicle-related fees and fines are also paid in full, and the county collector shall not issue a paid personal property tax receipt until all such charges are paid. Any contract or cooperative agreement shall be in writing, signed by the city, county governing body, and county collector, and shall set forth the provisions and terms agreed to by the parties.

137.720. PERCENTAGE OF AD VALOREM PROPERTY TAX COLLECTIONS TO BE DEDUCTED FOR DEPOSIT IN COUNTY ASSESSMENT FUND — ADDITIONAL DEDUCTION (ST. LOUIS CITY AND ALL COUNTIES). — 1. A percentage of all ad valorem property tax collections allocable to each taxing authority within the county and the county shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750. The percentage shall be one-half of one percent for all counties of the first and second classification and cities not within a county and one percent for counties of the third and fourth classification.

2. For counties of the first classification, counties with a charter form of government, and any city not within a county, an additional one-eighth of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall

be deposited into the assessment fund of the county as required pursuant to section 137.750, and for counties of the second, third, and fourth classification, an additional one-quarter of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, provided that such additional amounts shall not exceed one hundred thousand dollars in any year for any county of the first classification and any county with a charter form of government and fifty thousand dollars in any year for any county of the second, third, or fourth classification.

3. The county shall bill any taxing authority collecting its own taxes. The county may also provide additional moneys for the fund. To be eligible for state cost-share funds provided pursuant to section 137.750, every county shall provide from the county general revenue fund, an amount equal to an average of the three most recent years of the amount provided from general revenue to the assessment fund, except that a lesser amount shall be acceptable if unanimously agreed upon by the county assessor, county governing body and the state tax commission. The county shall deposit the county general revenue funds in the assessment fund as agreed to in its original or amended maintenance plan, state reimbursement funds shall be withheld until the amount due is properly deposited in such fund.

4. Four years following the effective date, the state tax commission shall conduct a study to determine the impact of increased fees on assessed valuation.

5. Any increase to the portion of property tax collections deposited into the county assessment funds provided for in subsection 2 of this section shall be disallowed in any year in which the state tax commission certifies an equivalent sales ratio for the county of less than or equal to thirty-one and two-thirds percent pursuant to the provisions of section 138.395, RSMo.

6. The provisions of subsections 2, 4, and 5 of this section shall expire on December 31, 2009.

138.011. BOARD OF EQUALIZATION MEMBERS, RESTRICTION ON BEING CERTAIN LOCAL OFFICIALS OR SCHOOL BOARD MEMBERS (CHARTER COUNTIES). — No member of any board of equalization in any county with a charter form of government shall be an official of any city, town, or village in the county, a member of any school board in the county, or an employee of any school district within the county. Each member shall have some level of experience as determined by the governing authority of the county as a real estate broker, real estate appraiser, home builder, property developer, lending officer, or investor in real estate before their appointment to the board.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.584, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing

water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility which converts recovered materials into a new product, or a different form which is used in producing a new product, and shall include a facility or equipment which is used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or

more or trailers used by common carriers, as defined in section 390.020, RSMo, solely in the transportation of persons or property in interstate commerce;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all

elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, solely in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use.

Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, which is ultimately consumed in connection with the manufacturing of cellular glass products;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003;

(38) All sales or other transfers of tangible personal property to a lessor, who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer, to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo.

144.615. EXEMPTIONS. — There are specifically exempted from the taxes levied in sections 144.600 to 144.745:

(1) Property, the storage, use or consumption of which this state is prohibited from taxing pursuant to the constitution or laws of the United States or of this state;

(2) Property, the gross receipts from the sale of which are required to be included in the measure of the tax imposed pursuant to the Missouri sales tax law;

(3) Tangible personal property, the sale **or other transfer** of which, if made in this state, would be exempt from or not subject to the Missouri sales tax pursuant to the provisions of [subsections] **subsection 2** [and 3] of section 144.030;

(4) Motor vehicles, trailers, boats, and outboard motors subject to the tax imposed by section 144.440;

(5) Tangible personal property which has been subjected to a tax by any other state in this respect to its sales or use; provided, if such tax is less than the tax imposed by sections 144.600 to 144.745, such property, if otherwise taxable, shall be subject to a tax equal to the difference between such tax and the tax imposed by sections 144.600 to 144.745;

(6) Tangible personal property held by processors, retailers, importers, manufacturers, wholesalers, or jobbers solely for resale in the regular course of business;

(7) Personal and household effects and farm machinery used while an individual was a bona fide resident of another state and who thereafter became a resident of this state, or tangible personal property brought into the state by a nonresident for his own storage, use or consumption while temporarily within the state.

144.757. LOCAL USE TAX TO FUND COMMUNITY COMEBACK PROGRAM — RATE OF TAX — ST. LOUIS COUNTY — BALLOT OF SUBMISSION — NOTICE TO DIRECTOR OF REVENUE — REPEAL OR REDUCTION OF LOCAL SALES TAX, EFFECT ON LOCAL USE TAX. — 1. Any county or municipality, except municipalities within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand may, by a majority vote of its governing body, impose a local use tax if a local sales tax is imposed as defined in section 32.085, RSMo, at a rate equal to the rate of the local sales tax in effect in such county or municipality; provided, however, that no ordinance or order enacted pursuant to sections 144.757 to 144.761 shall be effective unless the governing body of the county or municipality submits to the voters thereof at a municipal, county or state general, primary or special election [prior to August 7, 1996, or after December 31, 1996,] a proposal to authorize the governing body of the county or municipality to impose a local use tax pursuant to sections 144.757 to 144.761. Municipalities within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand may, upon voter approval received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section, impose a local use tax at the same rate as the local municipal sales tax with the revenues from all such municipal use taxes to be distributed pursuant to subsection 4 of section 94.890, RSMo. The municipality shall within thirty days of the approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section select one of the distribution options permitted in subsection 4 of section 94.890, RSMo, for distribution of all municipal use taxes.

2. (1) The ballot of submission, except for counties and municipalities described in subdivisions (2) and (3) of this subsection, shall contain substantially the following language:

Shall the (county or municipality's name) impose a local use tax at the same rate as the total local sales tax rate, currently (insert percent), provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(2) (a) The ballot of submission in a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

For the purposes of [preventing neighborhood decline, demolishing old deteriorating and vacant buildings, rehabilitating historic structures, cleaning polluted sites, promoting reinvestment in neighborhoods by creating the (name of county) Community Comeback Program; and for the purposes of] **economic development and** enhancing local government services[;], shall the county [governing body] be authorized to collect a local use tax equal to the total of the existing county sales tax rate of (insert tax rate), provided that if the county sales tax is repealed, reduced

or raised by voter approval, the local use tax rate shall also be repealed, reduced or raised by the same voter action? [The Community Comeback Program] **Fifty percent of the revenue shall be used for economic development, including retention, creation, and attraction of better paying jobs, and fifty percent shall be used for enhancing local government services. The county shall be required to [submit] make available to the public [a] an audited comprehensive financial report detailing the management and use of economic development funds each year.**

A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers and on certain taxable business transactions. A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(b) The ballot of submission in a municipality within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

Shall the municipality be authorized to impose a local use tax at the same rate as the local sales tax by a vote of the governing body, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(3) The ballot of submission in any city not within a county shall contain substantially the following language:

Shall the (city name) impose a local use tax at the same rate as the local sales tax, currently at a rate of (insert percent) which includes the capital improvements sales tax and the transportation tax, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the director of revenue receives notice of adoption of the local use tax on or before August 16, 1996. If any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the calendar quarter which begins at least forty-five days after the director of revenue receives notice of adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall have no power to impose the local use tax as herein authorized unless and until the governing body of the county or municipality shall again have submitted another proposal to authorize the governing body of the county or municipality to impose the local use tax [pursuant to sections 144.757 to 144.761] and such proposal is approved by a majority of the qualified voters voting thereon.

3. The local use tax may be imposed at the same rate as the local sales tax then currently in effect in the county or municipality upon all transactions which are subject to the taxes imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the local sales tax.

4. For purposes of sections 144.757 to 144.761 [and sections 67.478 to 67.493, RSMo], the use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions. Such a description shall not change the classification, form or subject of the use tax or the manner in which it is collected.

144.759. COLLECTION OF ADDITIONAL LOCAL USE TAX FOR ECONOMIC DEVELOPMENT — DEPOSIT IN LOCAL USE TAX TRUST FUND, NOT PART OF STATE REVENUE — DISTRIBUTION TO COUNTIES AND MUNICIPALITIES — REFUNDS — NOTIFICATION TO DIRECTOR OF REVENUE ON ABOLISHMENT OF TAX — ECONOMIC DEVELOPMENT DEFINED.

— 1. All local use taxes collected by the director of revenue pursuant to sections 144.757 to 144.761 on behalf of any county or municipality, less one percent for cost of collection, which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited with the state treasurer in a local use tax trust fund, which fund shall be separate and apart from the local sales tax trust funds. The moneys in such local use tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each county or municipality imposing a local use tax, and the records shall be open to the inspection of officers of the county or municipality and to the public. No later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month, except as provided in subsection 2 of this section, to the county or municipality treasurer, or such other officer as may be designated by the county or municipality ordinance or order, of each county or municipality imposing the tax authorized by sections 144.757 to 144.761, the sum due the county or municipality as certified by the director of revenue.

2. The director of revenue shall distribute all moneys which would be due any county [of the first classification] having a charter form of government and having a population of nine hundred thousand or more to the county treasurer or such other officer as may be designated by county ordinance, who shall distribute such moneys as follows: the portion of the use tax imposed by the county which equals one-half the rate of sales tax in effect for such county shall be disbursed to the county [community comeback trust authorized pursuant to sections 67.478 to 67.493, RSMo] **treasurer for expenditure for economic development purposes, as defined in this section, subject to any qualifications and regulations adopted by ordinance of the county. Such ordinance shall require an audited comprehensive financial report detailing the management and use of economic development funds each year. Such ordinance shall require that the county and the municipal league of the county jointly prepare an economic development strategy to guide expenditures of funds and conduct an annual review of the strategy.** The treasurer or such other officer as may be designated by county ordinance shall distribute one-third of the balance to the county and to each city, town and village in group B according to section 66.620, RSMo, as modified by this section, a portion of the **two-thirds** remainder of such balance equal to the percentage ratio that the population of each such city, town or village bears to the total population of all such group B cities, towns and villages. For the purposes of this subsection, population shall be determined by the last federal decennial census or the latest census that determines the total population of the county and all political subdivisions therein. For the purposes of this subsection, each city, town or village in group A according to section 66.620, RSMo, but whose per capita sales tax receipts during the

preceding calendar year pursuant to sections 66.600 to 66.630, RSMo, were less than the per capita countywide average of all sales tax receipts during the preceding calendar year, shall be treated as a group B city, town or village until the per capita amount distributed to such city, town or village equals the difference between the per capita sales tax receipts during the preceding calendar year and the per capita countywide average of all sales tax receipts during the preceding calendar year.

3. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties or municipalities. If any county or municipality abolishes the tax, the county or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall authorize the state treasurer to remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

4. Except as modified in sections 144.757 to 144.761, all provisions of sections 32.085 and 32.087, RSMo, applicable to the local sales tax, except for subsection 12 of section 32.087, RSMo, and all provisions of sections 144.600 to 144.745 shall apply to the tax imposed pursuant to sections 144.757 to 144.761, and the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax.

5. As used in this section, "economic development" means:

(1) Expenditures for infrastructure and sites for business development or for public infrastructure projects;

(2) Purchase, assembly, clearance, demolition, environmental remediation, planning, redesign, reconstruction, rehabilitation, construction, modification or expansion of land, structures and facilities, public or private, either in connection with a reinvestment project in areas with underused, derelict, economically challenged, or environmentally troubled sites, or in connection with business attraction, retention, creation, or expansion;

(3) Expenditures related to business district activities such as facade improvements, landscaping, street lighting, sidewalk construction, trash receptacles, park benches, and other public improvements;

(4) Expenditures for the provision of workforce training and educational support in connection with job creation, retention, attraction, and expansion;

(5) Development and operation of business incubator facilities, and related entrepreneurship support programs;

(6) Capitalization or guarantee of small business loan or equity funds;

(7) Expenditures for business development activities including attraction, creation, retention, and expansion; and

(8) Related administration expenses of economic and community development programs, provided that such expenses shall not exceed five percent of annual revenues.

190.306. DISSOLUTION OF EMERGENCY TELEPHONE SERVICE NOT REQUIRED, WHEN (CHRISTIAN COUNTY). — No provision in this chapter shall be construed to require any municipality within any county of the third classification without a township form of government and with more than fifty-four thousand two hundred but less than fifty-four thousand three hundred inhabitants that has established an emergency telephone service

to dissolve the service in the event that the county in which the municipality is located establishes an emergency telephone service and moves to a higher county classification.

193.265. FEES FOR CERTIFICATION AND OTHER SERVICES — DISTRIBUTION — SERVICES FREE, WHEN. — 1. For the issuance of a certification or copy of a [vital] **death** record, the applicant shall pay a fee of [ten] **thirteen** dollars [to the state department of revenue] **for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time.** [For each vital records fee collected from August 28, 1992, to June 30, 1996, the director of revenue shall credit four dollars to the general revenue fund, three dollars to the children's trust fund as established pursuant to section 210.173, RSMo, two dollars to the Missouri public health services fund established in section 192.900, RSMo, and one dollar shall be deposited in the "Endowed Care Cemetery Audit Fund", which is hereby created in the state treasury. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410, RSMo. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery audit fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund pursuant to this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system and allow local registrars to issue computer-generated certificates of birth and death records of persons who are born or who die in Missouri] **For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees shall be deposited to the state department of revenue.** Beginning [July 1, 1996] **August 28, 2004**, for each vital records fee collected, the director of revenue shall credit four dollars to the general revenue fund, five dollars to the children's trust fund [and], one dollar shall be credited to the endowed care cemetery audit fund, **and three dollars for the first copy of death records and five dollars for birth, marriage, divorce, and fetal death records shall be credited to the Missouri public services health fund established in section 192.900, RSMo. Money in the endowed care cemetery audit fund shall be available by appropriation to the division of professional registration to pay its expenses in administering sections 214.270 to 214.410, RSMo. All interest earned on money deposited in the endowed care cemetery audit fund shall be credited to the endowed care cemetery fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money placed in the endowed care cemetery audit fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year. The money deposited in the public health services fund under this section shall be deposited in a separate account in the fund, and moneys in such account, upon appropriation, shall be used to automate and improve the state vital records system, and develop and maintain an electronic birth and death registration system which shall be implemented no later than December 31, 2009.** For any search of the files and records, when no record is found, the state shall be entitled to a fee equal to the amount for a certification of a vital record for a five-year search to be paid by the applicant. For the processing of each legitimation, adoption, court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a certification of a vital record. Except whenever a certified copy or copies of a vital record is required to perfect any claim of any person on relief, or any dependent of any person who was on relief for any claim upon the government of the state or United States, the state registrar shall,

upon request, furnish a certified copy or so many certified copies as are necessary, without any fee or compensation therefor.

2. For the issuance of a certification of a [birth or] death record by the local registrar, the applicant shall pay a fee of [ten] **thirteen** dollars [to the official county health agency] **for the first certification or copy and a fee of ten dollars for each additional copy ordered at that time. For the issuance of a certification or copy of a birth, marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees shall be deposited to the official city or county health agency.** A certified copy of a death record by the local registrar can only be issued within twenty-four hours of receipt of the record by the local registrar. Computer-generated certifications of death records may be issued by the local registrar after twenty-four hours of receipt of the records. The fees paid to the official county health agency shall be retained by the local agency for local public health purposes.

229.340. FEE MAY BE REQUIRED. — Each applicant for a permit under the provisions of sections 229.300 to 229.370 may be required by the county highway engineer to pay a fee in an amount determined by the county commission by order of record, not to exceed the sum of [three] **seven** dollars for each such application, which fee is to be paid into a special fund in the county treasury and to be used for the purpose of paying the expenses incident to the provisions of sections 229.300 to 229.370. Any balance on hand in such fund at the end of the fiscal year of such county shall be paid into the special county road and bridge fund of such county.

245.015. OWNERS MAY FORM LEVEE DISTRICT, WHERE — ARTICLES OF INCORPORATION TO BE FILED IN CIRCUIT COURT. — 1. The owners of a majority of the acreage in any contiguous body of swamp, wet or overflowed land or other property in the nature of individual or corporate franchises in this state, or land subject to overflow, wash or bank erosion, [situate] **located** in one or more counties or in [a third or fourth class] **any** city, town, or village in this state [or in any city in this state under sixty thousand population operating under a special charter] **not located within any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, or in any city, town, or village of the third or fourth classification which is located within any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants,** may form a levee district for the purpose of having such land and other property reclaimed and protected from the effects of overflow and other water, for sanitary or agricultural purposes, or from the effect of wash or bank erosion, or when the same may be conducive to the public health, convenience or welfare, or of public utility or benefit, by levee, or otherwise, and for that purpose they may make and sign articles of association in which shall be stated: The name of the district, and the number of years the same is to continue; the boundary lines of the proposed levee district; the names as listed on the county assessor's records of the owners of land or other individual or corporate franchise property in [said] **such** district, together with a plat of the district showing the lands to be covered in the district; [said] **such** articles shall further state that the owners of real estate and other such property within [said] **the** district whose names are subscribed to [said] **such** articles are willing to and do obligate themselves to pay the tax or taxes which may be assessed against their respective lands or other property to pay the expense of organizing, and of making and maintaining the improvements that may be necessary to effect the reclamation or protection of [said] **such** lands or other such property, so formed into a levee district, and to reclaim and to protect the same from the effects of overflow and other water, or from bank erosion or wash, and [said] **the** articles of association shall contain a petition praying that the lands and other property described therein be declared a levee district under the provisions of this law. After [said] **the** articles of association and petition have been so signed the same shall be filed in the office of the circuit clerk of the county in which such lands and other property are [situate] **located;** or, if such lands and other property be composed of tracts

or parcels [situate] **located** in two or more different counties then in the office of the clerk of the circuit court of the county in which [there are situate] more of [said] **such** lands and other property **are located** than in any other county; provided, that in the event any work is to be done upon any navigable stream, the consent of the federal government shall be obtained to make such improvement or improvements before the actual work on the improvements shall be begun.

2. The modifications to this section, as enacted by the ninety-second general assembly, second regular session, shall not be construed to enhance or limit the current law, and any interpretation thereof, with regard to where a levee district may or may not be formed within any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants nor any city, town, village or other political subdivision contained therein.

245.060. ELECTION OF BOARD OF SUPERVISORS — TERM OF OFFICE. — Within thirty days after any levee district shall have been organized and incorporated under the provisions of section 245.025 the circuit clerk of the court organizing [said] **such** district shall, upon giving notice by causing publication to be made once a week for two consecutive weeks in some newspaper published in each county in which lands of the district are [situate] **located**, the last insertion to be at least ten days before the day of such meeting, call a meeting of the owners of real estate or other property [situate] **located** in [said] **such** district, including the authorized representative of any corporation which owns real estate or other property [situate] **located** in [said] **such** district, at a day and hour specified in some public place in the county in which the district was organized, for the purpose of electing a board of five supervisors, to be composed of owners of real estate in [said] **the** district, which may include the authorized representative of any corporation which owns real estate or other property in [said] **the** district, two of whom at least shall be residents of the county or counties in which [said] **the** district is [situate] **located**, or some adjoining counties; the landowners, when assembled, shall organize by the election of a chairman and secretary of the meeting, who shall conduct the election; at such election each and every acre of land and each and every mile of right-of-way of every corporation owning a franchise in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy for every acre of land or mile of right-of-way owned by him **or her** in such district, and the five persons receiving the highest number of votes shall be declared elected as supervisors; and [said] **the** supervisors shall immediately by lot determine the terms of their office, which shall be respectively one, two, three, four and five years, and they shall serve until their successors shall have been elected and qualified; provided, that if the levee district be located **wholly** within a third or fourth class city of this state, or within any city in this state under fifty thousand population operating under a special charter then the owner of each lot, tract, parcel or subdivision thereof, as set forth in the final decree of the court creating and incorporating [said] **such** levee district, shall be entitled to one vote, in person or by proxy, for each lot, tract, parcel or subdivision thereof, owned by him **or her**.

245.095. POWERS AND DUTIES OF SUPERVISORS. — 1. In order to effect the leveeing, protection and reclamation of the land and other property in the district subject to tax, the board of supervisors is authorized and empowered to straighten, widen, change the course and line of any levee in or out of [said] **such** district; to fill up any creek, drain, channel, river, watercourse or natural stream; and to divert or divide the flow of water in or out of [said] **the** district; to construct and maintain sewers, levees, dikes, dams, sluices, revetments, drainage ditches, pumping stations, syphons and any other works and improvements deemed necessary to preserve and maintain the works in or out of [said] **the** district; to construct roadways over levees and embankments; to construct any and all of [said] **such** works and improvements across, through or over any public highway, railroad right-of-way, track, grade, fill or cut in or out of [said] **the** district; to remove any fence, building or other improvements in or out of [said] **the** district, and shall have the right to hold, control and acquire by donation or purchase, and if need

be, condemn any land, easement, railroad or other right-of-way, sluice or franchise in or out of [said] **the** district for right-of-way, or for any of the purposes herein provided, or for material to be used in constructing and maintaining [said] **such** works and improvements for leveeing, protecting and reclaiming the lands in [said] **the** district. [Said] **The** board shall also have the right to condemn for the use of the district, any land or property within or without [said] **the** district not acquired or condemned by the court on the report of the commissioners assessing benefits and damages and shall follow the procedure that is now provided by law for the appropriation of land or other property taken for telegraph, telephone and railroad rights-of-way.

2. In addition to the powers granted in subsection 1 of this section, in any levee district formed under the laws of this state having an assessed valuation of real property of twenty-five million dollars or greater and located, in whole or in part, in any county with a charter form of government and with more than one million inhabitants, the board of supervisors is authorized to construct and maintain waterlines and any other works and improvements deemed necessary to preserve and maintain the works in or out of the district.

246.305. ALTERNATIVE LEVEE DISTRICT, CERTAIN COUNTIES — VOTING RIGHTS — APPORTIONMENT OF TAXES. — 1. In any levee district formed pursuant to the laws of this state having assessed valuation of real property of twenty-five million dollars or greater, which is located in whole or in part in a county [having over nine hundred thousand in population] **with a charter form of government and with more than one million inhabitants** according to the last decennial census, the board of supervisors may by order, resolution or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the following alternative [procedures] **procedure** with respect to voting rights [and apportionment of installment taxes]:

[(1)] Voting by landowners of the levee district shall be determined on the basis of the assessed benefits of the property owned and the owner of each piece of property shall receive one vote per ten thousand dollars of assessed benefits, rounded to the next lowest amount in cases where assessed benefits do not evenly tally. In cases where the assessed benefits of a piece of property are below ten thousand dollars, the owner shall be entitled to one vote[.].

[(2)] **2. In any levee district formed under the laws of this state, the board of supervisors may, by order, resolution, or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the procedure in this subsection with respect to the apportionment of installment taxes.** After the making of a readjustment of the assessment of benefits pursuant to section 245.197, RSMo, then the board of supervisors shall reapportion and levy on each tract of land or other property in the district the taxes imposed under section 245.180, 245.190 or 245.198, RSMo, in proportion to the benefits assessed as readjusted and not in excess thereof. In case bonds have been issued as provided in sections 245.010 to 245.280, RSMo, then the amount of interest which will accrue on such bonds shall be included and added to said taxes as reapportioned and levied based upon the benefits assessed as readjusted. The secretary of the board of supervisors, as soon as said tax has been reapportioned, shall, at the expense of the district, prepare a list of all taxes as reapportioned and levied, in the form of a well-bound book, which book shall be endorsed and named "Readjusted Levee Tax Record of District", which endorsement shall also be printed or written at the top of each page of said book, and shall be signed and certified by the president and secretary of the board of supervisors, attested by the seal of the district, and the same shall thereafter become a permanent record in the office of [said] **the** secretary. The [said] board of supervisors shall each year thereafter determine, order and levy the amount of the annual installment of the total taxes levied under section 245.180, 245.190 or 245.198, RSMo, based upon such reapportionment, which shall in all other respects be due and collected as provided in section 245.185, RSMo.

260.831. COLLECTION OF FEE BY OPERATOR, PAYMENT REQUIRED — SEPARATE SURCHARGE, TRANSMITTAL OF FUNDS. — 1. Each operator of a solid waste sanitary or demolition landfill in any county wherein a landfill fee has been approved by the voters pursuant to section 260.830 shall collect a charge equal to the charge authorized by the voters in such election, not to exceed one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be collected in addition to any fee authorized or imposed pursuant to the provisions of section 260.330, and shall be paid to such operator by all political subdivisions, municipalities, corporations, entities or persons disposing of solid waste or demolition waste, whether pursuant to contract or otherwise, and notwithstanding that any such contract may provide for collection, transportation and disposal of such waste at a fixed fee. Any such contract providing for collections, transportation and disposal of such waste at a fixed fee which is in force on August 28, 2003, shall be renegotiated by the parties to the contract to include the additional fee imposed by this section. Each such operator shall submit the charge, less collection costs, to the governing body of the county, which shall dedicate such funds for use by the industrial development authority within the county and such funds shall be used by the **county commission or** authority for economic development within the county. Collection costs shall be the same as established by the department of natural resources pursuant to section 260.330, and shall not exceed two percent of the amount collected pursuant to this section.

2. The charges established in this section shall be enumerated separately from any disposal fee charged by the landfill. After January 1, 1994, the fee authorized under section 260.830 and this section shall be stated as a separate surcharge on each individual solid waste collection customer's invoice and shall also [name the] **indicate whether the county commission or** economic development authority [which] receives the funds. Moneys transmitted to the governing body of the county shall be no less than the amount collected less collection costs and in a form, manner and frequency as the governing body may prescribe. Failure to collect such charge shall not relieve the operator from responsibility for transmitting an amount equal to the charge to the governing body.

304.010. DEFINITIONS — MAXIMUM SPEED LIMITS — CITIES, TOWNS, VILLAGES, CERTAIN COUNTIES, MAY SET SPEED LIMIT, HOW SET — SLOWER SPEEDS SET, WHEN — VIOLATIONS, PENALTY. — 1. As used in this section, the following terms mean:

(1) "Expressway", a divided highway of at least ten miles in length with four or more lanes which is not part of the federal interstate system of highways which has crossovers or accesses from streets, roads or other highways at the same grade level as such divided highway;

(2) "Freeway", a limited access divided highway of at least ten miles in length with four or more lanes which is not part of the federal interstate system of highways which does not have any crossovers or accesses from streets, roads or other highways at the same grade level as such divided highway within such ten miles of divided highway;

(3) "Rural interstate", that part of the federal interstate highway system that is not located in an urban area;

(4) "Urbanized area", an area of fifty thousand population at a density at or greater than one thousand persons per square mile.

2. Except as otherwise provided in this section, the uniform maximum speed limits are and no vehicle shall be operated in excess of the speed limits established pursuant to this section:

(1) Upon the rural interstates and freeways of this state, seventy miles per hour;

(2) Upon the rural expressways of this state, sixty-five miles per hour;

(3) Upon the interstate highways, freeways or expressways within the urbanized areas of this state, sixty miles per hour;

(4) All other roads and highways in this state not located in an urbanized area and not provided for in subdivisions (1) to (3) of this subsection, sixty miles per hour;

(5) All other roads provided for in subdivision (4) of this subsection shall not include any state two-lane road which is identified by letter. Such lettered roads shall not exceed fifty-five

miles per hour unless set at a higher speed as established by the department of transportation, except that no speed limit shall be set higher than sixty miles per hour;

(6) For the purposes of enforcing the speed limit laws of this state, it is a rebuttable presumption that the posted speed limit is the legal speed limit.

3. On any state road or highway where the speed limit is not set pursuant to a local ordinance, the highways and transportation commission may set a speed limit higher or lower than the uniform maximum speed limit provided in subsection 2 of this section, if a higher or lower speed limit is recommended by the department of transportation. The department of public safety, where it believes for safety reasons, or to expedite the flow of traffic a higher or lower speed limit is warranted, may request the department of transportation to raise or lower such speed limit, except that no speed limit shall be set higher than seventy miles per hour.

4. Notwithstanding the provisions of section 304.120 or any other provision of law to the contrary, cities, towns and villages may regulate the speed of vehicles on state roads and highways within such cities', towns' or villages' corporate limits by ordinance with the approval of the state highways and transportation commission. Any reduction of speed in cities, towns or villages shall be designed to expedite the flow of traffic on such state roads and highways to the extent consistent with public safety. The commission may declare any ordinance void if it finds that such ordinance is:

(1) Not primarily designed to expedite traffic flow; and

(2) Primarily designed to produce revenue for the city, town or village which enacted such ordinance.

If an ordinance is declared void, the city, town or village shall have any future proposed ordinance approved by the highways and transportation commission before such ordinance may take effect.

5. The county commission of any county of the second, third or fourth classification may set the speed limit or the weight limit or both the speed limit and the weight limit on roads or bridges on any county, township or road district road in the county and, with the approval of the state highways and transportation commission, on any state road or highway not within the limits of any incorporated city, town or village, lower than the uniform maximum speed limit as provided in subsection 2 of this section where the condition of the road or the nature of the area requires a lower speed. **The maximum speed limit set by the county commission of any county of the second, third, or fourth classification for any road under the commission's jurisdiction shall not exceed fifty-five miles per hour if such road is properly marked by signs indicating such speed limit. If the county commission does not mark the roads with signs indicating the speed limit, the speed limit shall be fifty miles per hour.** The commission shall send copies of any order establishing a speed limit or weight limit on roads and bridges on a county, township or road district road in the county to the chief engineer of the state department of transportation, the superintendent of the state highway patrol and to any township or road district maintaining roads in the county. After the roads have been properly marked by signs indicating the speed limits and weight limits set by the county commission, the speed limits and weight limits shall be of the same effect as the speed limits provided for in subsection 1 of this section and shall be enforced by the state highway patrol and the county sheriff as if such speed limits and weight limits were established by state law.

6. The county commission of any county of the second, third, or fourth classification may by ordinance set a countywide speed limit on roads within unincorporated areas of any county, township, or road district in the county and may establish reasonable speed regulations for motor vehicles within the limit of such county. No person who is not a resident of such county and who has not been within the limits thereof for a continuous period of more than forty-eight hours shall be convicted of a violation of such ordinances, unless it is shown by competent evidence that there was posted at the place where the boundary of such county road enters the county a sign displaying in black letters not less than four inches high and one inch wide on a white background the speed fixed by such

county so that such signs may be clearly seen by operators and drivers from their vehicles upon entering such county. The commission shall send copies of any order establishing a countywide speed limit on a county, township, or road district road in the county to the chief engineer of the Missouri department of transportation, the superintendent of the state highway patrol, and to any township or road district maintaining roads in the county. After the boundaries of the county roads entering the county have been properly marked by signs indicating the speed limits set by the county commission, the speed limits shall be of the same effect as the speed limits provided for in subsection 1 of this section and shall be enforced by the state highway patrol and the county sheriff as if such speed limits were established by state law.

[6.] 7. All road signs indicating speed limits or weight limits shall be uniform in size, shape, lettering and coloring and shall conform to standards established by the department of transportation.

[7.] 8. The provisions of this section shall not be construed to alter any speed limit set below fifty-five miles per hour by any ordinance of any county, city, town or village of the state adopted before March 13, 1996.

[8.] 9. The speed limits established pursuant to this section shall not apply to the operation of any emergency vehicle as defined in section 304.022.

[9.] 10. A violation of the provisions of this section shall not be construed to relieve the parties in any civil action on any claim or counterclaim from the burden of proving negligence or contributory negligence as the proximate cause of any accident or as the defense to a negligence action.

[10.] 11. Any person violating the provisions of this section is guilty of a class C misdemeanor, unless such person was exceeding the posted speed limit by twenty miles per hour or more then it is a class B misdemeanor.

321.554. ADJUSTMENT IN TOTAL OPERATING LEVY OF DISTRICT BASED ON SALES TAX REVENUE, EXCEPTIONS — GENERAL REASSESSMENT, EFFECT OF. — 1. Except in any county of the first classification with more than two hundred forty thousand and three hundred but less than two hundred forty thousand four hundred inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants, or any county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, or any county with a charter form of government and with more than one million inhabitants, or any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, when the revenue from the ambulance or fire protection district sales tax is collected for distribution pursuant to section 321.552, the board of the ambulance or fire protection district, after determining its budget for the year pursuant to section 67.010, RSMo, and the rate of levy needed to produce the required revenue and after making any other adjustments to the levy that may be required by any other law, shall reduce the total operating levy of the district in an amount sufficient to decrease the revenue it would have received therefrom by an amount equal to fifty percent of the previous fiscal year's sales tax receipts. Loss of revenue, due to a decrease in the assessed valuation of real property located within the ambulance or fire protection district as a result of general reassessment, and from state-assessed railroad and utility distributable property based upon the previous fiscal year's receipts shall be considered in lowering the rate of levy to comply with this section in the year of general reassessment and in each subsequent year. In the event that in the immediately preceding year the ambulance or fire protection district actually received more or less sales tax revenue than estimated, the ambulance or fire protection district board may adjust its operating levy for the current year to reflect such increase or decrease. The director of revenue shall certify the amount

payable from the ambulance or fire protection district sales tax trust fund to the general revenue fund to the state treasurer.

2. Except that, in the first year in which any sales tax is collected pursuant to section 321.552, the collector shall not reduce the tax rate as defined in section 137.073, RSMo.

3. In a year of general reassessment, as defined by section 137.073, RSMo, or assessment maintenance as defined by section 137.115, RSMo, in which an ambulance or fire protection district in reliance upon the information then available to it relating to the total assessed valuation of such ambulance or fire protection district revises its property tax levy pursuant to section 137.073 or 137.115, RSMo, and it is subsequently determined by decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of assessed valuations that the assessed valuation of such ambulance or fire protection district has been changed, and but for such change the ambulance or fire protection district would have adopted a different levy on the date of its original action, then the ambulance or fire protection district may adjust its levy to an amount to reflect such change in assessed valuation, including, if necessary, a change in the levy reduction required by this section to the amount it would have levied had the correct assessed valuation been known to it on the date of its original action, provided:

(1) The ambulance or fire protection district first levies the maximum levy allowed without a vote of the people by article X, section 11(b) of the constitution; and

(2) The ambulance or fire protection district first adopts the tax rate ceiling otherwise authorized by other laws of this state; and

(3) The levy adjustment or reduction may include a one-time correction to recoup lost revenues the ambulance or fire protection district was entitled to receive during the prior year.

321.556. REPEAL OF SALES TAX, PROCEDURE, EXCEPTIONS — BALLOT LANGUAGE. —

1. **Except in any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants, or any county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, or any county with a charter form of government and with more than one million inhabitants, or any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants,** the governing body of any ambulance or fire protection district, when presented with a petition signed by at least twenty percent of the registered voters in the ambulance or fire protection district that voted in the last gubernatorial election, calling for an election to repeal the tax pursuant to section 321.552, shall submit the question to the voters using the same procedure by which the imposition of the tax was voted. The ballot of submission shall be in substantially the following form:

"Shall (insert name of ambulance or fire protection district) repeal the (insert amount up to one-half) of one percent sales tax now in effect in the (insert name of ambulance or fire protection district) and reestablish the property tax levy in the district to the rate in existence prior to the enactment of the sales tax?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

2. If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved.

389.610. RAILROAD CROSSINGS CONSTRUCTION AND MAINTENANCE, HIGHWAYS AND TRANSPORTATION COMMISSION TO HAVE EXCLUSIVE POWER TO REGULATE AND PROVIDE

STANDARDS — APPORTIONMENT OF COST. — 1. No public road, highway or street shall be constructed across the track of any railroad corporation, nor shall the track of any railroad corporation be constructed across a public road, highway or street, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade nor shall the track of a street railroad corporation be constructed across the tracks of a railroad corporation at grade, without having first secured the permission of the **state** highways and transportation commission, except that this subsection shall not apply to the replacement of lawfully existing tracks. The commission shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

2. Every railroad corporation shall construct and maintain good and sufficient crossings and crosswalks where its railroad crosses public roads, highways, streets or sidewalks now or hereafter to be opened.

3. The **state** highways and transportation commission shall make and enforce reasonable rules and regulations pertaining to the construction and maintenance of all public grade crossings. These rules and regulations shall establish minimum standards for:

- (1) The materials to be used in the crossing surface;
- (2) The length and width of the crossing;
- (3) The approach grades;
- (4) The party or parties responsible for maintenance of the approaches and the crossing surfaces.

4. The **state** highways and transportation commission shall have the exclusive power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, apportionment of expenses, use and warning devices of each crossing of a public road, street or highway by a railroad or street railroad, and of one railroad or street railroad by another railroad or street railroad. In order to facilitate such determinations, the **state** highways and transportation commission may adopt pertinent provisions of The Manual on Uniform Traffic Control Devices for Streets and Highways or other national standards.

5. The **state** highways and transportation commission shall have the exclusive power to alter or abolish any crossing, at grade or otherwise, of a railroad or street railroad by a public road, highway or street whenever **state** the highways and transportation commission finds that public necessity will not be adversely affected and public safety will be promoted by so altering or abolishing such crossing, and to require, where, in its judgment it would be practicable, a separation of grades at any crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made. **When a road authority lawfully closes or vacates a roadway which provided access to a railroad crossing, the state highways and transportation commission shall issue an order authorizing removal of the crossing by the railroad within thirty days of being notified of such action by the roadway authority or railroad.**

6. The **state** highways and transportation commission shall have the exclusive power to prescribe the proportion in which the expense of the construction, installation, alteration or abolition of such crossings, the separation of grades, and the continued maintenance thereof, shall be divided between the railroad, street railroad, and the state, county, municipality or other public authority in interest.

7. Any agreement entered into after October 13, 1963, between a railroad or street railroad and the state, county, municipality or other public authority in interest, as to the apportionment of any cost mentioned in this section shall be final and binding upon the filing with the **state** highways and transportation commission of an executed copy of such agreement. If such parties are unable to agree upon the apportionment of the cost, the **state** highways and transportation commission shall apportion the cost among the parties according to the benefits accruing to each. In determining such benefits, the **state** highways and transportation commission shall consider all relevant factors including volume, speed and type of vehicular traffic, volume, speed and type

of train traffic, and advantages to the public and to such railroad or street railroad resulting from the elimination of delays and the reduction of hazard at the crossing.

8. Upon application of any person, firm or corporation, the **state** highways and transportation commission shall determine if an existing private crossing has become or a proposed private crossing will become utilized by the public to the extent that it is necessary to protect or promote the public safety. The **state** highways and transportation commission shall consider all relevant factors including but not limited to volume, speed, and type of vehicular traffic, and volume, speed, and type of train traffic. If it be determined that it is necessary to protect and promote the public safety, the **state** highways and transportation commission shall prescribe the nature and type of crossing protection or warning device for such crossing, the cost of which shall be apportioned by the **state** highways and transportation commission among the parties according to the benefits accruing to each. In the event such crossing protection or warning device as prescribed by the **state** highways and transportation commission is not installed, maintained or operated, the crossing shall be closed to the public.

9. The exclusive power of the **state** highways and transportation commission pursuant to this section shall be subject to review, determination, and prescription by the administrative hearing commission, upon application to [that] **the administrative hearing** commission by any interested party **in accordance with section 621.040, RSMo.** Upon filing of an application pursuant to this subsection, the administrative hearing commission is vested with the exclusive power of the **state** highways and transportation commission otherwise provided in this section, with reference to matters reviewed, determined or prescribed by the administrative hearing commission.

393.760. ELECTION ON ISSUANCE OF BONDS — REQUIRED ACTIONS — NOTICE — CONDUCT OF ELECTION — FORM OF BALLOT — ALTERNATIVE VOTING PROCEDURES. — 1. The commission shall, in accordance with the provisions of chapter 115, RSMo, order an election to be held whereby the qualified electors in each contracting municipality participating in the project shall approve or disapprove the issuance of the bonds as provided for in the resolution of the commission. The commission may not order such an election until it has engaged and received a report from an independent consulting engineer as defined in section 327.181, RSMo, for the purpose of determining the economic and engineering feasibility of any proposed project the costs of which are to be financed through the issuance of bonds. The report of the consulting engineer shall be provided to and approved by the legislative body and executive of each contracting municipality participating in the project and such report shall be open to public inspection and shall be the subject of a public hearing in each municipality participating in the project. Notice of the time and place of each such hearing shall be published in a daily newspaper of general circulation within each municipality. Interested parties may appear and fully participate in such hearings.

2. The commission shall notify the election authority or authorities responsible for conducting elections within each contracting municipality participating in the project in accordance with chapter 115, RSMo.

3. The question shall be submitted in substantially the following form:

OFFICIAL BALLOT

Should a resolution to approve the issuance of revenue bonds by the joint municipal (water) (sewer) (power) (gas) commission in an amount not to exceed \$..... for the purpose of be approved?

☐ YES ☐ NO

If you are in favor of the resolution, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

4. If the resolution to issue the bonds is approved by at least a majority of the qualified electors voting thereon in each of the contracting municipalities participating in the project, the commission shall declare the result of the election and cause the bonds to be issued.

5. The municipalities participating in the project shall bear all expenses associated with the elections in such contracting municipalities.

6. **In lieu of the public voting procedure set forth in subsections 1 to 5 of this section, in the case of purchasing or leasing, constructing, installing, and operating reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water, the commission may provide for a vote by the governing body of each contracting municipality. Such vote shall require the approval of three-quarters of all governing bodies of the contracting municipalities. The commission may not order such a vote until it has engaged and received a report from an independent consulting engineer as defined in section 327.181, RSMo, for the purpose of determining the economic and engineering feasibility of any proposed project the costs of which are to be financed through the issuance of bonds. The report of the consulting engineer shall be provided to and approved by the legislative body and executive of each contracting municipality participating in the project and such report shall be open to public inspection and shall be the subject of a public hearing in each municipality participating in the project. Notice of the time and place of each such hearing shall be published in a daily newspaper of general circulation within each municipality. Interested parties may appear and fully participate in such hearings. Each contracting municipality shall vote by ordinance or resolution and such ordinance or resolution shall approve the issuance of revenue bonds by the joint municipal water commission in an amount not to exceed a specified amount.**

475.275. VERIFICATION OF SECURITIES HELD BY CONSERVATOR — POOLED ACCOUNTS, DEFINED, RESTRICTIONS ON — AUDIT OF POOLED ACCOUNTS, WHEN. — 1. The conservator, at the time of filing any settlement with the court, shall exhibit all securities or investments held by him to an officer of the bank or other depository wherein the securities or investments are held for safekeeping or to an authorized representative of the corporation which is surety on his bond, or to the judge or clerk of a court of record in this state, or upon request of the conservator or other interested party, to any other reputable person designated by the court, who shall certify in writing that he has examined the securities or investments and identified them with those described in the account and shall note any omission or discrepancies. If the depository is the conservator, the certifying officer shall not be the officer verifying the account. The conservator may exhibit the securities or investments to the judge of the court, who shall endorse on the account and copy thereof, a certificate that the securities or investments shown therein as held by the conservator were each in fact exhibited to him and that those exhibited to him were the same as those in the account and noting any omission or discrepancy. The certificate, and the certificate of an official of the bank in which are deposited any funds for which the conservator is accountable, showing the amount on deposit, shall be prepared and signed in duplicate and one of each shall be filed by the conservator with his account.

2. (1) As used in this section, "pooled account" means any account maintained by a fiduciary for more than one principal and established to manage and invest the funds of such principals. No fiduciary shall place funds into a pooled account unless the account meets the following criteria:

- (a) The pooled account is maintained at a bank or savings and loan institution;**
 - (b) The pooled account is titled in such a way as to reflect that the account is being held by a fiduciary in a custodial capacity;**
 - (c) The fiduciary maintains, or causes to be maintained, records containing information as to the name and ownership interest of each principal in the pooled account;**
 - (d) The fiduciary's records contain a statement of all accretions and disbursements;**
 - and**
 - (e) The fiduciary's records are maintained in the ordinary course of business and in good faith.**
-

(2) The public administrator of any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants serving as conservator and using pooled accounts for the investing and management of conservatorship funds shall have any such accounts audited on at least an annual basis by an independent certified public accountant. The audit shall review the records of the receipts and disbursements of each estate account. Upon completion of the investigation, the certified public accountant shall render a report to the judge of record in this state showing the receipts, disbursements, and account balances as to each estate as well as the total assets on deposit in the pooled account on the last calendar day of each year. The county shall provide for the expense of the audit. If the public administrator has provided the judge with the audit required by this subsection, the public administrator shall not be required to obtain the written certification of an officer of a bank or other depository on any estate asset maintained within the pooled account as required in subsection 1 of this section.

479.020. MUNICIPAL JUDGES, SELECTION, TENURE, JURISDICTION, QUALIFICATIONS, COURSE OF INSTRUCTION. — 1. Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges consistent with the provisions of this chapter who shall have original jurisdiction to hear and determine all violations against the ordinances of the municipality. The method of selection of municipal judges shall be provided by charter or ordinance. Each municipal judge shall be selected for a term of not less than two years as provided by charter or ordinance.

2. Except where prohibited by charter or ordinance, the municipal judge may be a part-time judge and may serve as municipal judge in more than one municipality.

3. No person shall serve as a municipal judge of any municipality with a population of seven thousand five hundred or more or of any municipality in a county of the first class with a charter form of government unless the person is licensed to practice law in this state unless, prior to January 2, 1979, such person has served as municipal judge of that same municipality for at least two years.

4. Notwithstanding any other statute, a municipal judge need not be a resident of the municipality or of the circuit in which the municipal judge serves except where ordinance or charter provides otherwise. Municipal judges shall be residents of Missouri.

5. Judges selected under the provisions of this section shall be municipal judges of the circuit court and shall be divisions of the circuit court of the circuit in which the municipality, or major geographical portion thereof, is located. The judges of these municipal divisions shall be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme court. The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of the municipal divisions within the circuit. [Notwithstanding the foregoing provisions of this subsection, in any city with a population of over four hundred thousand with full-time municipal judges who are subject to a plan of merit selection and retention, such municipal judges and court personnel of the municipal divisions shall not be subject to court management and case docketing in the municipal divisions by the presiding judge or the rules of the circuit court of which the municipal divisions are a part.]

6. No municipal judge shall hold any other office in the municipality which the municipal judge serves as judge. The compensation of any municipal judge and other court personnel shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

7. Municipal judges shall be at least twenty-one years of age. No person shall serve as municipal judge after that person has reached that person's seventy-fifth birthday.

8. Within six months after selection for the position, each municipal judge who is not licensed to practice law in this state shall satisfactorily complete the course of instruction for municipal judges prescribed by the supreme court. The state courts administrator shall certify to the supreme court the names of those judges who satisfactorily complete the prescribed course. If a municipal judge fails to complete satisfactorily the prescribed course within six months after the municipal judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal judge, nor shall any compensation thereafter be paid to such person for serving as municipal judge.

488.426. DEPOSIT REQUIRED IN CIVIL ACTIONS — EXEMPTIONS — SURCHARGE TO REMAIN IN EFFECT — ADDITIONAL FEE FOR ADOPTION AND SMALL CLAIMS COURT (FRANKLIN COUNTY). — 1. The judges of the circuit court, en banc, in any circuit in this state may require any party filing a civil case in the circuit court, at the time of filing the suit, to deposit with the clerk of the court a surcharge in addition to all other deposits required by law or court rule. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are to be paid by the county or state or any city.

2. The surcharge in effect on August 28, 2001, shall remain in effect until changed by the circuit court. The circuit court in any circuit, except the circuit court in Jackson County, may change the fee to any amount not to exceed fifteen dollars. The circuit court in Jackson County may change the fee to any amount not to exceed twenty dollars. A change in the fee shall become effective and remain in effect until further changed.

3. Sections 488.426 to 488.432 shall not apply to proceedings when costs are waived or are paid by the county or state or any city.

4. In addition to any fee authorized by subsection 1 of this section, any county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants may impose an additional fee of ten dollars excluding cases concerning adoption and those in small claims court.

488.429. FUND PAID TO TREASURER DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY, AND COURTROOM RENOVATION AND TECHNOLOGY ENHANCEMENT IN CERTAIN COUNTIES. — 1. Moneys collected pursuant to section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. In any county of the first classification without a charter form of government and with a population of at least two hundred thousand, such fund may also be applied and expended for that county's or circuit's family services and justice fund.

3. In any county [of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants, in any county of the third classification without a township form of government and with more than forty thousand four hundred but less than forty thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand four hundred but less than thirteen thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but less than thirteen thousand six hundred inhabitants, in any county of the third classification without a township form of government and

with more than twenty-three thousand two hundred fifty but less than twenty-three thousand three hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but less than eleven thousand eight hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than thirty-seven thousand two hundred but less than thirty-seven thousand three hundred inhabitants, in any county of the fourth classification with more than fifty-five thousand six hundred but less than fifty-five thousand seven hundred inhabitants, or in any county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants], **other than a county participating in the nonpartisan court plan**, such fund may also be applied and expended for courtroom renovation and technology enhancement [in those counties], **or for debt service on county bonds for such renovation or enhancement projects.**

4. This section shall expire on December 31, 2014.

493.050. PUBLIC ADVERTISEMENTS AND ORDERS OF PUBLICATION PUBLISHED ONLY IN CERTAIN NEWSPAPERS. — 1. All public advertisements and orders of publication required by law to be made and all legal publications affecting the title to real estate, shall be published in some daily, triweekly, semiweekly or weekly newspaper of general circulation in the county where located and which shall have been admitted to the post office as periodicals class matter in the city of publication; shall have been published regularly and consecutively for a period of three years, except that a newspaper of general circulation may be deemed to be the successor to a defunct newspaper of general circulation, and subject to all of the rights and privileges of said prior newspaper under this statute, if the successor newspaper shall begin publication no later than thirty consecutive days after the termination of publication of the prior newspaper; shall have a list of bona fide subscribers voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time; provided, that when a public notice, required by law, to be published once a week for a given number of weeks, shall be published in a daily, triweekly, semiweekly or weekly newspaper, the notice shall appear once a week, on the same day of each week, and further provided, that every affidavit to proof of publication shall state that the newspaper in which such notice was published has complied with the provisions of this section; provided further, that the duration of consecutive publication provided for in this section shall not affect newspapers which have become legal publications prior to September 6, 1937; provided, however, that when any newspaper shall be forced to suspend publication in any time of war, due to the owner or publisher being inducted into the armed forces of the United States, the newspaper may be reinstated within one year after actual hostilities have ceased, with all the benefits provided pursuant to the provisions of this section, upon the filing with the secretary of state of notice of intention of such owner or publisher, the owner's surviving spouse or legal heirs, to republish such newspaper, setting forth the name of the publication, its volume and number, its frequency of publication, and its readmission to the post office where it was previously entered as periodicals class mail matter, and when it shall have a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time. All laws or parts of laws in conflict with this section except sections 493.070 to 493.120, are hereby repealed.

2. If a county is served by only one newspaper that has been published regularly and consecutively for a period of two years and meets all other publication, postal, and subscription requirements pursuant to this section, such newspaper shall be qualified to publish all public advertisements and orders of publication required by law and all legal publications affecting the title to real estate. The provisions of this subsection shall terminate on June 30, 2006.

537.550. LIMITATION ON LIABILITY FOR INJURY OR DEATH AT FAIRS OR FESTIVALS — SIGNS TO BE POSTED, CONTENT. — 1. No county, city or village with ten thousand or

fewer inhabitants that organizes, sponsors, or conducts any fair, festival, or similar gathering shall be liable, except as provided in sections 537.600 to 537.650, for an injury or death of any person attending the event, and no person attending the event shall make any claim against, or recover from, any such county, city or village for injury, loss, damage, or death of the person attending the event.

2. Each county, city or village governed by this section shall post and maintain signs which contain the warning notice specified in this section. The signs shall be placed in a clearly visible location at major entrances to the event and throughout the event location as determined by the governing authority of the county, city or village. The signs described in this section shall be in black letters on a white background with each letter to be a minimum of one inch in height and contain substantially the following warning notice:

WARNING

Under Missouri Law, (enter county, city or village name) is not liable for an injury to or the death of any person resulting from the inherent risks of participating in or observing any activities at this event pursuant to the Revised Statutes of Missouri.

644.032. SALES TAX FOR PURPOSE OF STORM WATER CONTROL OR LOCAL PARKS OR BOTH MAY BE IMPOSED BY ANY COUNTY OR MUNICIPALITY — TAX, HOW CALCULATED — VOTER APPROVAL — BALLOT FORM — EFFECTIVE WHEN — FAILURE OF TAX, RESUBMISSION, WHEN — REVENUE MAY BE USED FOR PARKS LOCATED OUTSIDE OF COUNTY OR MUNICIPALITY, WHEN. — 1. The governing body of any municipality or county may impose, by ordinance or order, a sales tax in an amount not to exceed one-half of one percent on all retail sales made in such municipality or county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section and section 644.033 shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax under the provisions of this section and section 644.033 shall be effective unless the governing body of the municipality or county submits to the voters of the municipality or county, at a municipal, county or state general, primary or special election, a proposal to authorize the governing body of the municipality or county to impose a tax, **provided that the tax authorized by this section shall not be imposed on the sales of food, as defined in section 144.014, RSMo, when imposed by any county with a charter form of government and with more than one million inhabitants.**

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the municipality (county) of impose a sales tax of (insert amount) for the purpose of providing funding for (insert either storm water control, or local parks, or storm water control and local parks) for the municipality (county)?

☐ YES

☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality or county shall not impose the sales tax authorized in this section and section 644.033 until the governing body of the municipality or county resubmits another proposal to authorize the governing body of the municipality or county to impose the sales tax authorized by this section and section 644.033 and such proposal is approved by a majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant to this section and section 644.033 be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section and section 644.033.

3. All revenue received by a municipality or county from the tax authorized under the provisions of this section and section 644.033 shall be deposited in a special trust fund and shall

be used to provide funding for storm water control or for local parks, or both, within such municipality or county, provided that such revenue may be used for local parks outside such municipality or county if the municipality or county is engaged in a cooperative agreement pursuant to section 70.220, RSMo.

4. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal or county funds.

SECTION 1. EMPLOYMENT OF COUNTY ENGINEER BY COUNTY COMMISSION NOT REQUIRED. — Nothing in chapter 61, RSMo, shall require the county commission to hire a county engineer. The county commission may hire and authorize an individual to perform those duties the individual is qualified for, based upon the individual's education and training.

SECTION 2. LEASEHOLD REVENUE BONDS, FEDERAL DESEGREGATION, BOARD OF FUND COMMISSIONERS TO DETERMINE WHETHER REDEMPTION IS FINANCIALLY FEASIBLE. — The board of fund commissioners shall determine whether any governmental entity has sufficient fund balances to redeem leasehold revenue bonds obligated under a federal desegregation action. If the board of fund commissioners determines that any governmental entity has sufficient fund balances to redeem or otherwise pay off such leasehold revenue bonds, the state board of education shall certify, under subdivision (5) of subsection 2 of section 160.415, RSMo, that no amount is needed by such governmental entity to repay such bonds.

[67.478. TITLE. — Sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493 shall be known and may be cited as the "Community Comeback Act".]

[67.481. DEFINITIONS. — As used in sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493, the following terms mean:

(1) "Community comeback plan" and "plan", a comprehensive countywide plan adopted by the community comeback trust board and the governing body of the county that identifies potential areas for reinvestment, projects and strategies to promote neighborhood reinvestment throughout the county, and that clearly identifies on a map the priority comeback communities. The plan shall be a five-year strategic and operating plan, complete with goals, objectives, targets and mechanisms or methods of measuring accomplishments, revised annually;

(2) "Community comeback program", "community comeback trust" and "trust", a fund held in the treasury of the county which shall be the repository for all taxes and other moneys raised pursuant to sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493, and authorized by the governing body of the county for the purposes of promoting neighborhood reinvestment;

(3) "Community comeback program board", "community comeback trust board" and "board", the entity established pursuant to sections 67.478 to 67.493 that is responsible for administering the comeback community trust;

(4) "Community comeback trust citizen advisory committee" and "advisory committee", an eleven-member committee established pursuant to sections 67.478 to 67.493 that is responsible for advising the community comeback fund board on the best methods of promoting neighborhood reinvestment;

(5) "Eligible expenses", costs qualified for funding through the community comeback trust which are:

(a) Incurred for the purchase, assembly, clearance, demolition and environmental remediation of land, structures and facilities, public or private, either as part of a neighborhood reinvestment project or to prepare sites for future use in areas with underutilized, derelict, economically challenged or environmentally troubled sites;

(b) Related to planning, redesign, clearance, reconstruction, structure rehabilitation, site remediation, construction, modification, expansion, remodeling, structural alteration, replacement or renovation of any structure in a priority comeback community;

(c) Expended for capital improvements or infrastructure improvements to facilitate economic development;

(d) Expended for residential redevelopment including, but not limited to, buyouts, land-assembly costs, infrastructure improvements and costs associated with preparing sites for housing construction; professional service expenses such as architectural, planning, engineering, design, marketing or other related expenses;

(e) Related to community improvement district or special business district expenses such as facade improvements, landscaping, street lighting, sidewalk construction, trash receptacles, park benches and other public improvements;

(f) Expenses related to facilitating transit-oriented developments, home improvement and home buyer loan programs; and

(g) Expenses eligible for funding through the select neighborhood action program;

(6) "Neighborhood reinvestment project" and "project", the planning, development, redesign, clearance, reconstruction or rehabilitation or any combination thereof in order to improve those residential, commercial, industrial, public or other structures or spaces and the infrastructure serving them as may be appropriate or necessary in the interest of the general welfare;

(7) "Petition", a petitioner's request for funding made to the community comeback trust;

(8) "Petitioner", the governing body of any municipality, the governing body of the county, any land clearance for redevelopment authority within the county organized pursuant to chapter 99, RSMo, or any not-for-profit economic development organization with a governing board not less than two-thirds of the members of which are appointed by the chief elected official of the county or by one or more organizations with governing boards appointed by the chief elected official;

(9) "Priority comeback community", an area in a county which encompasses an entire United States census block group and has a median household income below the median household income for such entire county;

(10) "Priority comeback project", a funding proposal submitted to a community comeback trust by a petitioner whose area is substantially within a priority comeback community;

(11) "Proposal", a petitioner's funding request for the eligible expenses of a neighborhood reinvestment project submitted to a trust by a petitioner;

(12) "Select neighborhood action program" and "SNAP", a grant program, administered and funded pursuant to subsection 5 of section 67.490;

(13) "Select neighborhood action program applicant" and "SNAP applicant", a neighborhood organization or not-for-profit organization whose mission is consistent with the community comeback plan. The organization shall have a municipal sponsor or a county sponsor if the area is unincorporated. The organization shall have been in existence for at least six months and meet at least once a year in order to be eligible for a SNAP grant;

(14) "SNAP grant", an endowment of money by the board to a SNAP applicant pursuant to subsection 5 of section 67.490.]

[67.484. ST. LOUIS COUNTY AUTHORIZED TO FORM COMMUNITY COMEBACK TRUST, PURPOSES, FORMATION — BOARD, COMPOSITION, NOMINATION, POWERS, DUTIES, RESTRICTIONS — FUNDING, LOCAL SALES TAX, BOND ISSUANCE, VALIDITY, PAYMENT. — 1. A community comeback trust may be created, incorporated and managed pursuant to this section by any county of the first classification with a charter form of government and a population of at least nine hundred thousand inhabitants according to the last decennial census, and may exercise the powers given to such trust pursuant to sections 67.478 to 67.493. A trust may sue and be sued, issue general revenue bonds and receive county use tax revenue pursuant

to the limitations of this section. A trust shall have as its primary duties the prevention of neighborhood decline, the demolition of old deteriorating and vacant buildings, rehabilitating historic structures, the cleaning of polluted sites and the promotion of neighborhood reinvestment where such investment is essential to reverse or stabilize a stagnant or declining pattern in household income, assessed values, occupancies and related characteristics.

2. The governing body of the county is hereby authorized to impose by ordinance a local use tax pursuant to sections 144.757 to 144.761, RSMo, for the purpose of funding the creation, operation and maintenance of a community comeback trust, as well as to provide revenue to the county and municipalities authorized to receive moneys generated by said tax pursuant to section 144.759, RSMo. The governing body of the county enacting such an ordinance shall submit to the voters of such county a proposal to approve its ordinance imposing the tax. Such ordinance shall become effective only after the majority of the voters voting on such ordinance approve such ordinance. The question shall be submitted to the voters in the county pursuant to section 144.757, RSMo.

3. (1) The community comeback trust board shall be composed of seven members as provided in this subsection. No member shall be an elected official, employee or contractor of the county or any municipality within the county or of any organization representing the county or any municipality within the county. Board members shall be citizens of the United States and shall reside within the county. No two members of the board shall be residents of the same county council district of such county. No member shall receive compensation for performance of board duties. No member shall be financially interested directly or indirectly in any contract entered into by the trust or by any petitioner. In the event that any property owned by a board member or the immediate family member of such board member is located in a priority comeback community, the member shall disclose such information to the board and abstain from any formal or informal actions regarding any project in that neighborhood.

(2) The chief elected official of any municipality wholly within the county and any member of the governing body of the county shall nominate individuals to serve on the board by providing a list of nominees to the county executive who shall appoint the members. Of the total members, at least four shall be residents of municipalities within the county and at least one shall have each of the following professions: a professional architect or engineer; an urban planner or design professional; a developer or builder; and an accountant or an attorney.

(3) The seat of a member shall be automatically vacated when the member changes his or her residence so as to no longer conform to the terms of the requirements of the member's appointment. The board shall promptly notify the county executive of such a change of residence, the pending expiration of any member's term, any member's need to vacate his or her seat or any vacancy on the board. A member whose term has expired shall continue to serve until the successor is appointed and qualified.

(4) Upon the passage of an ordinance by the governing body of the county establishing the community comeback trust, the governing body of the county shall, within ten days, send by United States mail written notice of the passage of the ordinance to the chief elected officials of each municipality wholly in the county.

(5) Each of the nominating authorities described in subdivision (2) of this subsection shall, within forty-five days of the passage of the ordinance establishing the board or within fourteen days of being notified of a board vacancy by the county executive, submit its list of nominees to the county executive. The county executive shall appoint members within sixty days of the passage of the ordinance or within thirty days of being notified by the board of a vacancy on the board. If a list of nominees is not submitted by the time specified, the county executive shall appoint the members using the criteria set forth in this section.

(6) At the first meeting of the board appointed after the effective date of the ordinance, the members shall choose by lot the length of their terms. Three shall serve for one year, two for two years, and two for three years. All succeeding members shall serve terms of three years.

Terms shall end on December thirty-first of the respective year. No member shall serve more than two consecutive full terms. Full terms shall include any term longer than two years.

4. The board, its employees and subcontractors shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records pursuant to chapter 610, RSMo. The board shall enact and adopt all rules, regulations and procedures that are reasonably necessary to achieve the objectives of sections 67.478 to 67.493, and not inconsistent therewith, no sooner than twenty-seven calendar days after notifying all municipalities and the county of the proposed rule, regulation or procedure enactment or change. Notice may be given by ordinary mail, by electronic mail or by publishing in at least one newspaper of general circulation qualified to publish legal notices. No new or amended rule, regulation or procedure shall apply retroactively to any proposal pending before the trust without the agreement of the petitioner. The board shall have the exclusive control of the expenditures of all money collected to the credit of the trust, subject to annual appropriations by the governing body of the county. The county government shall provide the trust staff. No more than five percent of the trust's annual budget shall be used for the trust's annual administrative expenses.

5. The trust is authorized to issue bonds, notes or other obligations for any proposal, and to refund such bonds, notes or obligations, as provided in subsection 3 of this section; and to receive and liquidate property, both real and personal, or money which has been granted, donated, devised or bequeathed to the district. The trust shall not have any power of eminent domain.

6. (1) Bonds issued pursuant to this section shall be issued pursuant to a resolution adopted by five-sevenths of the board which shall set out the estimated cost to the trust of the proposed improvements, and shall further set out the amount of the bonds to be issued, their purpose or purposes, their date or dates, denomination or denominations, rate or rates of interest, time or times of payment, both of principal and of interest, place or places of payment and all other details in connection with such bonds. Any such bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the resolution.

(2) Notwithstanding the provisions of section 108.170, RSMo, such bonds shall bear interest at rate or rates determined by the trust, shall mature within a period not exceeding twenty years and may be sold at public or private sale for not less than ninety-five percent of the principal amount of such bonds. Bonds issued by the trust shall possess all of the qualities of negotiable instruments pursuant to the laws of this state.

(3) Such bonds may be payable to the bearer, may be registered or coupon bonds, and, if payable to bearer, may contain such registration provisions as to either principal and interest, or principal only, as may be provided in the resolution authorizing such bonds, which resolution may also provide for the exchange of registered and coupon bonds. Such bonds and any coupons attached thereto shall be signed in such manner and by such officers of the district as may be provided by the resolution authorizing the bonds. The trust may provide for the replacement of any bond which has become mutilated, destroyed or lost.

(4) Bonds issued by the trust shall be payable as to principal, interest and redemption premium, if any, out of all or any part of the trust fund, including revenues derived from use taxes. Neither the board members nor any person executing the bonds shall be personally liable on such bonds by reason of the issuance of such bonds. Bonds issued pursuant to this section shall not constitute a debt, liability or obligation of this state, or any political subdivision of this state, nor shall any such obligations be a pledge of the faith and credit of this state, but shall be payable solely from the revenues and assets held by the trust. The issuance of bonds pursuant to this section shall not directly, indirectly or contingently obligate this state or any political subdivision of this state to levy any form of taxation for such bonds or to make any appropriation for their payment. Each obligation or bond issued pursuant to this section shall contain on its face a statement to the effect that the trust shall not be obligated to pay such bond nor interest on

such bond except from the revenues received by the trust or assets of the trust lawfully pledged for such trust, and that neither the faith or credit nor the taxing power of this state or of any political subdivision of this state is pledged to the payment of the principal of or the interest on such obligation or bond. The proceeds of such bonds shall be disbursed in such manner and pursuant to such restrictions as the trust may provide in the resolution authorizing the issuance of such bonds.

(5) The trust may issue negotiable refunding bonds for the purpose of refunding, extending or unifying the whole or any part of such bonds then outstanding, or any bonds, notes or other obligations issued by any other public agency, public body or political subdivision in connection with any facilities or land to be acquired, leased or subleased by the trust, which refunding bonds shall not exceed the amount necessary to refund the principal of the outstanding bonds to be refunded and the accrued interest on such bonds to the date of such refunding, together with any redemption premium, amounts necessary to establish reserve and escrow funds and all costs and expenses incurred in connection with the refunding. The board shall provide for the payment of interest and principal of such refunding bonds in the same manner as was provided for the payment of interest and principal of the bonds refunded.

(6) In the event that any of the members or officers of the trust whose names appear on any bonds or coupons shall cease to be on the board or cease to be an officer before the delivery of such bonds, such signatures shall remain valid and sufficient for all purposes, the same as if such board members or officers had remained in office until such delivery.

(7) The trust is hereby declared to be performing a public function and bonds of the trust are declared to be issued for an essential public and governmental purpose, and, accordingly, interest on such bonds and income from such bonds shall be exempt from income taxation by this state. All purchases in excess of ten thousand dollars shall be made pursuant to the lowest and best bid standard as provided in section 34.040, RSMo, or pursuant to the lowest and best proposal standard as provided in section 34.042, RSMo. The board of the trust shall have the same discretion, powers and duties as the commissioner of administration has in sections 34.040 and 34.042, RSMo.]

[67.487. COMMUNITY COMEBACK PLAN, NOTIFICATION, DEVELOPMENT, DISTRIBUTION, ANNUAL REVISION AND ADOPTION — REPORTS AND AUDITS REQUIRED — ADVISORY COMMITTEE TO BE ESTABLISHED BY THE BOARD. — 1. Within fourteen days of the first meeting of the first board appointed following the effective date of the ordinance, the board shall notify by mail the chief elected officials of all municipalities wholly within the county, the chief elected official of the county and all the members of the governing body of the county of the requirement to conduct a planning process and adopt a community comeback plan.

2. The board shall solicit full citizen, county and municipal involvement in developing the plan. The board shall conduct public hearings throughout the county to seek input regarding the plan, and may convene meetings with the appropriate staff of the county and municipalities in order to seek input and to coordinate the logistics of producing the plan. A copy of the plan shall be sent to the chief elected official of every municipality wholly within the county, the chief elected official of the county and each member of the governing body of the county.

3. The board and the governing body of the county shall annually revise and adopt a plan.

4. Each plan shall include a map of the county, as well as a text enumerating the efforts expected each year in the various subregions of the county. Each plan shall address the factors that are causing or are likely to cause one or more of the following:

- (1) Assessed values below the county average;
- (2) Median household incomes below the county median;
- (3) An unemployment rate above the county average;
- (4) A reduction in the number of jobs with an emphasis upon those jobs paying average or above-average salaries;

(5) Failure to keep pace with the average growth rate in home values in the metropolitan area or county; and

(6) A high vacancy rate among residential, commercial and industrial properties.

5. Each plan shall include an analysis of the condition of the housing stock in the various subregions of the county, a market analysis of the home-buying market with a focus on the impediments to attracting home buyers to those subregions and an analysis of the physical infrastructure needs that prevent economic growth.

6. The board may consider the following factors when determining the appropriate areas and strategies for investment:

(1) Buildings that are unsafe or unhealthy for occupancy due to code violations, dilapidation, defective design, faulty utilities or any other negative conditions;

(2) Factors that prevent or substantially hinder the economically viable use of buildings or lots, such as substandard design, inadequate size, lack of parking or any other conditions;

(3) Incompatible uses that prevent economic development;

(4) Subdivided lots of irregular form and shape and inadequate size for proper usefulness that have multiple ownership;

(5) Depreciated or stagnant property values, including properties that contain hazardous wastes;

(6) Abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities;

(7) The existence of conditions that are not conducive to public safety; and

(8) The lack of necessary commercial facilities normally found in neighborhoods.

7. Each plan shall outline specific strategies to address the problems facing the various subregions and neighborhoods within the county. The plan shall also discuss the partnerships that can be made with federal, state and local governments, as well as businesses, labor organizations, nonprofit groups, religious and other groups and citizens to help implement the plan. These strategies shall include estimated costs and time lines for completion.

8. The board shall produce an annual report focusing on the accomplishments of the trust relative to the goals set forth in the plan, the goals for the next year and the challenges facing the trust. The annual report shall be given to the chief elected officials of all the municipalities wholly within the county, the chief elected official of the county, the members of the governing board of the county and the public libraries within the county, and shall be posted on the county Internet web site.

9. Every year, the board shall commission an independent financial audit, the report of which shall be distributed in the same manner as the annual report pursuant to subsection 8 of this section.

10. Every five years, the board shall commission an independent management audit. The management audit shall include a comprehensive analysis of development trends, factors and practices along with specific recommendations to improve the trust's ability to achieve its mission. The management audit shall be reviewed by the advisory committee which may offer constructive advice on enhancing practices in order to achieve the goals of the program. The management audit shall be distributed in the same manner as the annual report pursuant to subsection 8 of this section. The board is authorized to take any necessary and proper steps to address the issues and recommendations contained within the management audit.

11. (1) The board shall establish an eleven-member advisory committee that shall meet four times each year and shall advise petitioners, staff and the board. The advisory committee members shall be appointed by the county executive. At least six of the advisory committee's members shall be nominated by the municipal league within the county and at least three shall be nominated by the members of the governing body of the county. No advisory committee member shall receive compensation for performance of duties as a committee member.

(2) At least one of the advisory committee members shall be a university professor well-versed in regional development issues. At least two of the advisory committee members shall be municipal officials from communities that have undertaken redevelopment programs as part of larger planning efforts. At least one of the advisory committee members shall be an attorney with experience in redevelopment activities. At least two of the advisory committee members shall be residents of priority comeback communities who have been active in advocating effective redevelopment policies. At least one of the advisory committee members shall be a private professional familiar with the factors influencing business location decisions. At least one of the advisory committee members shall be an individual familiar with education and training practices and workforce needs, with an understanding of how labor availability impacts business location decisions. At least one of the advisory committee members shall be a planner from the private sector knowledgeable in the area of strategic planning and the principles of multiyear rolling plans.

(3) The advisory committee shall promptly notify the county executive of the pending expiration of any member's term or any vacancy on the advisory committee. A member whose term has expired shall continue to serve until his or her successor is appointed and qualified.

(4) The board shall establish the advisory committee by resolution at the board's first meeting. The board shall, within ten days of the passage of the resolution establishing the advisory committee, send by United States mail written notice of the passage of the resolution to the county's municipal league and the members of the governing body of the county. The municipal league and the members of the governing board of the county shall, within forty-five days of the passage of the resolution establishing the advisory committee or within fourteen days of being notified of a vacancy by the county executive, submit its list of nominees to the county executive. The county executive shall appoint members within sixty days of the passage of the resolution or within thirty days of being notified by the committee of a vacancy on the advisory committee. If a list of nominees is not submitted by the time specified, the county executive shall appoint the members using the criteria set forth in this section before the sixtieth day from the passage of the resolution or before the thirtieth day from being notified of a vacancy on the existing advisory committee.

(5) At the advisory committee's first meeting, the members shall choose by lot the length of their terms. Two shall serve for one year, three for two years, three for three years and three for four years. All succeeding committee members shall serve for four years. Terms shall end on December thirty-first of the respective year.

(6) The committee members shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records pursuant to chapter 610, RSMo.]

[67.490. PETITIONS, CONTENTS, REVIEW, CRITERIA, APPROVAL BY BOARD AS PROPOSAL, PUBLIC HEARING — PROCEDURE IF FUNDS SOUGHT, ADDITIONAL REVIEW, FINDINGS BY BOARD REQUIRED WHEN — SELECT NEIGHBORHOOD ACTION PROGRAM, ELIGIBLE PROJECTS. — 1. The board shall in a timely manner adopt rules setting forth basic guidelines for acceptance and evaluation of petitions, including a common understandable format, as well as appropriate supporting material, maps, plans and data. The board shall begin to accept petitions one month after the adoption of the plan by the governing body of the county pursuant to section 67.487. The board shall review all petitions submitted by any petitioner. Review shall begin no later than thirty days after submission of the petition to the commission. In order to qualify as a proposal, a petition shall address the criteria set forth in subsection 4 of this section. For the purposes of this subsection, the term "pending" means any proposal submitted to the board which has not yet been approved by the board.

2. When practical, a petition shall be initially submitted to the advisory committee for constructive review and comment in a manner likely to result in a proposal that addresses a strategy outlined in the plan.

3. The board shall hold a public hearing concerning the petition, which may be on the same day as a scheduled meeting of the board.

4. (1) In reviewing any petition for funding, the board shall first determine if funds are sought for eligible expenses for a neighborhood reinvestment project. If the petition seeks such funds, the board shall certify such petition as a proposal subject to further review unless the board finds that the petition seeks funds for expenses that do not qualify as eligible expenses, or seeks funds for an endeavor other than a neighborhood reinvestment project. If the board finds that funds are sought for ineligible expenses or for an ineligible endeavor, the board need not take any further action and shall notify the petitioner in writing of all deficiencies that prevent the petition from being a proposal. If the board determines that there is a minor error or discrepancy in a petition, the board, with the petitioner's concurrence, may make such changes to the petition as are necessary to rectify the error that prevents the petition from being certified as a proposal subject to further review. Within six months of certification of a petition as a proposal, the board shall issue a finding approving or disapproving such proposal. In disapproving any proposal, the board shall issue a document indicating the reasons that the proposal was disapproved.

(2) If the board determines that a proposal is a priority comeback project consistent with the strategies and priorities set forth in the community comeback plan and that the project is well-planned, realistic, creative, resourceful, benefits the local community and is cost-effective, then the board shall award funding. If the board determines that a proposal is a priority comeback project, but is inconsistent with the strategies and priorities in the community comeback plan, the board may award funding if it finds that the project is well-planned, realistic, creative, resourceful, benefits the local community, is cost-effective and addresses the reinvestment needs of neighborhoods by one or more of the following:

- (a) Reducing or removing impediments to attracting home buyers;
- (b) Providing the necessary physical infrastructure needed to promote significant job growth;
- (c) Reducing or removing any such factor or factors that constitute an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use.

(3) If the board determines that a proposal, which is not a priority comeback project, is consistent with the strategies and priorities set forth in the community comeback plan and is well-planned, realistic, creative, resourceful, benefits the local community and is cost-effective, the board may award funding if the board adds such proposal to the plan. If the board determines that a proposal, which is not a priority comeback project, is inconsistent with the strategies and priorities in the community comeback plan, the board may award funding if it finds that the project is well-planned, realistic, creative, resourceful, benefits the local community, is cost-effective and addresses the reinvestment needs of neighborhoods by one or more of the following:

- (a) Reducing or removing impediments to attracting home buyers;
- (b) Providing the necessary physical infrastructure needed to promote significant job growth;
- (c) Reducing or removing any such factor or factors that constitute an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use.

(4) The board, the advisory committee and the staff of both may advise petitioners on issues related to petitions or proposals. The board may meet informally, subject to the requirements of chapter 610, RSMo, with representatives of potential petitioners with regard to future petitions and plans.

5. The board shall establish a select neighborhood action program. SNAP applicants shall provide a ten-percent cash or in-kind match to be eligible for a SNAP grant. Project categories eligible for SNAP grant funding shall be:

(1) Neighborhood beautification projects which enhance the appearance of the overall neighborhood. Such projects include, but are not limited to, tree and flower plantings, cleanups, entranceway landscaping, community gardens, public art and neighborhood identification signs/banners;

(2) Neighborhood organization or capacity projects which create or increase membership in a neighborhood organization promoting community betterment. Such projects include, but are not limited to, neighborhood newsletters, neighborhood marketing brochures, neighborhood meetings and special events, and technology such as web site development;

(3) Neighborhood-school partnership projects which benefit a school and the adjacent neighborhood. Involvement of both the school and the neighborhood in planning, implementation and maintenance must be substantiated. Partnership projects include, but are not limited to, youth and community programs that promote safety, culture or the environment and that are beneficial to both the school and the neighborhood;

(4) Capital purchase projects which include the acquisition of equipment or property. Such projects include, but are not limited to, land acquisition, playground equipment, bicycle racks and major supplies;

(5) Neighborhood improvement projects which benefit the local infrastructure in a neighborhood, and include construction of sidewalks or installation of streetlights.

6. Project categories ineligible for SNAP grant funding shall be:

(1) Projects accomplished in more than twelve months;

(2) Projects that duplicate existing private or public programs;

(3) Projects that require ongoing services, or requests to support continual operating budgets; and

(4) Projects that conflict with the community comeback plan.

7. When making SNAP grant funding decisions, the board shall consider the level of neighborhood participation including the percentage of residents who are involved in planning and implementing the idea, the diversity of parties involved or that will benefit, and the amount of neighborhood opposition; the community benefit of the project, including the number of people who will benefit from the project and the overall quality of the project.]

[67.493. FUNDS, MINIMUM TO BE USED FOR SNAP GRANT PROGRAM AND PRIORITY COMEBACK PROJECTS, OTHER USES. — Of the funds available to the trust, a minimum of five percent of the funds, not to exceed an unallocated balance of five hundred thousand dollars rolled over from the previous fiscal year, shall be set aside annually for the SNAP grant program. Of the remaining funds seventy-five percent calculated on a rolling three-year average shall be set aside for priority comeback projects. The balance of the funds shall be used to indirectly or directly benefit priority comeback communities or residents of those areas by utilizing such funds to:

(1) Promote job preparation and job creation in areas easily accessed by residents of priority comeback communities;

(2) Improve neighborhoods adjacent to priority comeback communities that are unlikely to be improved without such funding; and

(3) Abate through low-interest home improvement loan programs or similar mechanisms the functional or marketable obsolescence of any owner-occupied residential structure over twenty-five years old which is located within a census block group below one hundred ten percent of the median income level for the metropolitan statistical area for this state; provided that, there is a significant threat of economic decline within the area without intervention by the trust.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the economic welfare of the citizens of this state, sections 137.100, 144.030, 144.615, and 493.050 of this act are deemed necessary for the immediate preservation of the public health,

welfare, peace, and safety and are hereby declared to be an emergency act within the meaning of the constitution and shall be in full force and effect upon its passage and approval.

Approved July 2, 2004

HB 798 [SCS HCS HB 798]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes certain counties to use moneys from law library funds for courtroom renovation and technology enhancement.

AN ACT to repeal section 488.429, RSMo, and to enact in lieu thereof one new section relating to civil case surcharges.

SECTION

A. Enacting clause.

488.429. Fund paid to treasurer designated by circuit judge — use of fund for law library, and courtroom renovation and technology enhancement in certain counties.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 488.429, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 488.429, to read as follows:

488.429. FUND PAID TO TREASURER DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY, AND COURTROOM RENOVATION AND TECHNOLOGY ENHANCEMENT IN CERTAIN COUNTIES. — 1. Moneys collected pursuant to section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. In [any county of the first classification without a charter form of government and with a population of at least two hundred thousand] **addition**, such fund may also be applied and expended for that county's or circuit's family services and justice fund.

3. In any county [of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants, in any county of the third classification without a township form of government and with more than forty thousand four hundred but less than forty thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand four hundred but less than thirteen thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but less than thirteen thousand six hundred inhabitants, in any county of the third classification without a township form of government and with more than twenty-three thousand two hundred fifty but less than twenty-three thousand

three hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but less than eleven thousand eight hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than thirty-seven thousand two hundred but less than thirty-seven thousand three hundred inhabitants, in any county of the fourth classification with more than fifty-five thousand six hundred but less than fifty-five thousand seven hundred inhabitants, or in any county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants] **other than a county on the nonpartisan court plan**, such fund may also be applied and expended for courtroom renovation and technology enhancement [in those counties], **or for debt service on county bonds for such renovation or enhancement projects.**

Approved July 2, 2004

HB 822 [SCS HB 822]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits certain local orders and ordinances related to amateur radio antennae.

AN ACT to amend chapter 67, RSMo, by adding thereto one new section relating to amateur radio antenna regulations.

SECTION

- A. Enacting clause.
- 67.329. Local ordinances regulating amateur radio antennas authorized, limitations, requirements — historic preservation considerations allowed.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.329, to read as follows:

67.329. LOCAL ORDINANCES REGULATING AMATEUR RADIO ANTENNAS AUTHORIZED, LIMITATIONS, REQUIREMENTS — HISTORIC PRESERVATION CONSIDERATIONS ALLOWED. —

1. No political subdivision shall enact or enforce any order or ordinance that does not comply with the limited preemption of the Federal Communications Commission Amateur Radio Preemption order, published at 101 F.C.C. 2d 952 (1985), or any regulation related to amateur radio service adopted under 47 CFR Part 97. Any order or ordinance relating to the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic considerations shall reasonably accommodate amateur communications and represent the minimal practicable regulation to accomplish the political subdivision's legitimate purpose. To the extent not preempted by federal law, nothing in this section shall prohibit a political subdivision from adopting an order or ordinance prohibiting amateur radio communications equipment from interfering with the reception of broadcast radio or television signals.

2. The provisions of this section do not prohibit a political subdivision from taking action to protect or preserve a historic, a historical, or an architectural district that is established by the political subdivision or pursuant to state or federal law.

Approved June 24, 2004

HB 826 [SCS HB 826 AND HCS HB 883]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates various portions of highways and bridges as memorials.

AN ACT to amend chapters 227 and 234, RSMo, by adding thereto three new sections relating to memorial highways.

SECTION

- A. Enacting clause.
- 227.346. U.S. Submarine Veterans' Memorial Highway designated for portion of Interstate 70 in Saline County.
- 227.347. Laura Ingalls Wilder Memorial Highway designated for a portion of Highway A between the city of Mansfield and the city of Macomb.
- 234.707. Brown-Stinson Memorial Bridge designated for bridge number A4975 located in Franklin County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 227 and 237, RSMo, are amended by adding thereto three new sections, to be known as sections 227.346, 227.347, and 234.707, to read as follows:

227.346. U.S. SUBMARINE VETERANS' MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 70 IN SALINE COUNTY. — The portion of interstate highway 70 between mile marker 69 in any county of the fourth classification with more than twenty-three thousand seven hundred but less than twenty-three thousand eight hundred inhabitants and east to mile marker 123 in any county of the first classification with more than one hundred thirty-five thousand four hundred but less than one hundred thirty-five thousand five hundred inhabitants, except where otherwise designated, shall be designated the "U.S. Submarine Veterans' Memorial Highway", and shall represent in its fifty-four mile stretch the fifty-four submarines lost during war and the Cold War. The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost of such signs to be paid by the submarine veterans' association.

227.347. LAURA INGALLS WILDER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY A BETWEEN THE CITY OF MANSFIELD AND THE CITY OF MACOMB. — The portion of highway A beginning at the intersection of business route 60 on the town square in the city of Mansfield and proceeding east to its intersection with highway K in the city of Macomb, except where otherwise designated, shall be designated the "Laura Ingalls Wilder Memorial Highway" in dedication to the author and her contribution to the state of Missouri. The department of transportation shall erect and maintain appropriate signs commemorating this portion of highway A at its discretion, and the Laura Ingalls Wilder Museum shall pay for all such signs.

234.707. BROWN-STINSON MEMORIAL BRIDGE DESIGNATED FOR BRIDGE NUMBER A4975 LOCATED IN FRANKLIN COUNTY. — The bridge, bridge number A4975, located at log mile 1.067 on Missouri Route 30 within Franklin County shall be designated the "Brown-Stinson Memorial Bridge".

Approved July 2, 2004

HB 833 [SS SCS HCS HB 833]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes creation of various exhibition centers and recreational facilities districts.

AN ACT to repeal sections 67.478, 67.481, 67.484, 67.487, 67.490, 67.493, 67.793, 67.799, 67.1706, 67.1754, 144.757, 144.759, and 644.032, RSMo, and to enact in lieu thereof fifteen new sections relating to counties.

SECTION

- A. Enacting clause.
- 67.793. Petition to create a regional recreational district — filed where — content — hearing.
- 67.799. Regional recreational district may levy property or sales tax, purpose — rate of tax — election, ballot form — tax, how collected — qualified voters defined.
- 67.1706. District to develop, operate and maintain system of interconnecting trails and parks — power to contract with other parks.
- 67.1754. Sales tax, how allocated.
- 67.2000. Creation of an exhibition center and recreational facility district, petition, hearing, ballot form — board of trustees, powers — trust fund created — sales tax authorization, procedure — dissolution of district (Buchanan, Camden, Cole, Greene, Jefferson, Miller, Morgan, Newton, and Wright counties).
- 67.2500. Establishment of a district, where — definitions (St. Charles County).
- 67.2505. Purpose of district — name — size — subdistricts permitted — procedure for establishment of a district.
- 67.2510. Alternative procedure for establishment of a district.
- 67.2515. Petition, contents, notice — hearing — district declared organized, when.
- 67.2520. Election conducted, when — sales tax vote, amount — ballot form.
- 67.2525. Board of directors, qualifications — subdivision of district, how — powers and duties of the board.
- 67.2530. Refund of district indebtedness, when, how — imposition of a sales tax authorized — deposit and use of sales tax revenue — repeal of sales tax, ballot form.
- 144.757. Local use tax to fund community comeback program — rate of tax — St. Louis County — ballot of submission — notice to director of revenue — repeal or reduction of local sales tax, effect on local use tax.
- 144.759. Collection of additional local use tax for economic development — deposit in local use tax trust fund, not part of state revenue — distribution to counties and municipalities — refunds — notification to director of revenue on abolishment of tax — economic development defined.
- 644.032. Sales tax for purpose of storm water control or local parks or both may be imposed by any county or municipality — tax, how calculated — voter approval — ballot form — effective when — failure of tax, resubmission, when — revenue may be used for parks located outside of county or municipality, when.
- 67.478. Title.
- 67.481. Definitions.
- 67.484. St. Louis County authorized to form community comeback trust, purposes, formation — board, composition, nomination, powers, duties, restrictions — funding, local sales tax, bond issuance, validity, payment.
- 67.487. Community comeback plan, notification, development, distribution, annual revision and adoption — reports and audits required — advisory committee to be established by the board.
- 67.490. Petitions, contents, review, criteria, approval by board as proposal, public hearing — procedure if funds sought, additional review, findings by board required when — select neighborhood action program, eligible projects.
- 67.493. Funds, minimum to be used for SNAP grant program and priority comeback projects, other uses.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.478, 67.481, 67.484, 67.487, 67.490, 67.493, 67.793, 67.799, 67.1706, 67.1754, 144.757, 144.759, and 644.032, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 67.793, 67.799, 67.1706, 67.1754, 67.2000, 67.2500, 67.2505, 67.2510, 67.2515, 67.2520, 67.2525, 67.2530, 144.757, 144.759, and 644.032, to read as follows:

67.793. PETITION TO CREATE A REGIONAL RECREATIONAL DISTRICT — FILED WHERE — CONTENT — HEARING. — 1. Whenever the creation of a regional recreational district is desired, one hundred or more persons residing in the proposed district may file with the county clerk in which the greater part of the proposed district's population resides a petition requesting the creation of the regional recreational district. In case the proposed district is situated in two or more counties, the petition shall be filed in the office of the county clerk of the county in which the greater part of the proposed district's population resides, and the governing body of that county shall set the petition for public hearing and conduct such hearing. The petition shall set forth:

- (1) A description of the territory to be embraced in the proposed district;
- (2) The names of the municipalities located within the proposed district;
- (3) The name of the proposed district;
- (4) The population of the proposed district;
- (5) The assessed valuation of the proposed district;
- (6) The type and rate of tax proposed to be levied; and
- (7) A request that the question be submitted to the voters residing within the limits of the

proposed regional recreational district whether they will establish a regional recreational district pursuant to the provisions of sections 67.792 to 67.799 to be known as ". . . Regional Recreational District" for the purpose of establishing, operating and maintaining public parks, neighborhood trails and recreational facilities within the boundaries of the district.

2. Whenever one hundred or more persons residing in an area contiguous to an existing regional recreational district desire to become part of that contiguous district, such persons may file a petition with the county clerk of the county in which the greater part of the population within the proposed addition to the district resides, and the governing body of that county shall set the petition for public hearing and conduct such hearing. The petition for the addition to a district shall set forth the same facts required for the creation of such a district pursuant to subdivisions (1) to (7) of subsection 1 of this section, except that:

(1) Subdivision (6) of subsection 1 of this section shall only permit the imposition of a tax on the real property located within the addition to the district; and

(2) Subdivision (7) of subsection 1 of this section shall, in the petition for the addition, be a request that the question be submitted to the voters residing within the limits of the proposed addition to the ". regional recreational district" as to whether or not they will become a part of the ". regional recreational district" for the purpose of establishing, operating and maintaining public parks, neighborhood trails and recreational facilities within the boundaries of such district.

3. The petition shall, after having been filed pursuant to this section, receive a hearing by the governing body of the county of filing pursuant to section 67.794.

4. The governing body of any county otherwise eligible to participate in a regional recreational district may directly authorize, by ordinance, the creation of a regional recreational district or an addition to an existing regional recreational district without the submission of a petition. The governing body of each such county shall, upon the enactment of such ordinance, submit the question of its approval to the voters in such county. If less than an entire county is proposed to participate in such a regional recreational district, the question may be submitted to the **registered and qualified** voters residing in the proposed [area, provided, that any regional recreational district which is supported by a sales tax shall be approved by the voters of the entire county] **district, or if no registered and qualified voters reside in the proposed district, to the owners of the real property located within the proposed district. Any ordinance adopted by the governing body creating a regional recreational district supported by a sales tax but with no registered and qualified voters residing within the proposed district boundaries shall be unanimously approved by the owners of real property within the proposed district.** The proposed district shall consist only of those counties, or portions of counties, where the governing body has approved an ordinance to create a district.

67.799. REGIONAL RECREATIONAL DISTRICT MAY LEVY PROPERTY OR SALES TAX, PURPOSE — RATE OF TAX — ELECTION, BALLOT FORM — TAX, HOW COLLECTED — QUALIFIED VOTERS DEFINED. — 1. A regional recreational district may, by a majority vote of its board of directors, impose an annual property tax for the establishment and maintenance of public parks and recreational facilities and grounds within the boundaries of the regional recreational district not to exceed sixty cents per year on each one hundred dollars of assessed valuation on all property within the district, except that no such tax shall become effective unless the board of directors of the district submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax.

2. The question shall be submitted in substantially the following form:
Shall a cent tax per one hundred dollars assessed valuation be levied for public parks and recreational facilities?

YES

NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have no power to impose the tax unless and until the board of directors of the district submits another proposal to authorize the tax and such proposal is approved by a majority of the qualified voters voting thereon.

3. The property tax authorized in subsections 1 and 2 of this section shall be levied and collected in the same manner as other ad valorem property taxes are levied and collected.

4. (1) A regional recreational district may, by a majority vote of its board of directors, impose a tax not to exceed one-half of one cent on all retail sales subject to taxation pursuant to sections 144.010 to 144.525, RSMo, for the purpose of funding the creation, operation and maintenance of public parks, recreational facilities and grounds within the boundaries of a regional recreational district. The tax authorized by this subsection shall be in addition to all other sales taxes allowed by law. No tax pursuant to this subsection shall become effective unless the board of directors submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the tax, and such tax shall become effective only after the majority of the voters voting on such tax approve such tax. [Only whole counties participating in a regional recreational district shall be able to impose a sales tax pursuant to this subsection.]

(2) In the event the district seeks to impose a sales tax pursuant to this subsection, the question shall be submitted in substantially the following form:

Shall a cent sales tax be levied on all retail sales within the district for public parks and recreational facilities?

YES

NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the tax shall become effective. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the board of directors shall have no power to impose the tax unless and until another proposal to authorize the tax is submitted to the voters of the district and such proposal is approved by a majority of the qualified voters voting thereon. The provisions of sections 32.085 and 32.087, RSMo, shall apply to any tax approved pursuant to this subsection.

5. As used in this section, "qualified voters" or "voters" means any individuals residing within the proposed district who are eligible to be registered voters and who have registered to vote under chapter 115, RSMo, or, if no individuals eligible and registered to vote reside within the proposed district, all of the owners of real property located within the proposed district who have unanimously petitioned for or consented to the adoption of an ordinance by the governing body imposing a tax authorized in this section. If the owner of the property within the proposed district is a political subdivision or

corporation of the state, the governing body of such political subdivision or corporation shall be considered the owner for purposes of this section.

67.1706. DISTRICT TO DEVELOP, OPERATE AND MAINTAIN SYSTEM OF INTER-CONNECTING TRAILS AND PARKS — POWER TO CONTRACT WITH OTHER PARKS. — The metropolitan district shall have as its [primary] duty the development, operation and maintenance of a public system of interconnecting trails and parks throughout the counties comprising the district. **Nothing in this section shall restrict the district's entering into and initiating projects dealing with parks not necessarily connected to trails.** The metropolitan district shall supplement but shall not substitute for the powers and responsibilities of the other parks and recreation systems within the metropolitan district **or other conservation and environmental regulatory agencies** and shall have the power to contract with other parks and recreation systems as well as with other public and private entities. **Nothing in this section shall give the metropolitan district authority to regulate water quality, watershed or land use issues in the counties comprising the district.**

67.1754. SALES TAX, HOW ALLOCATED. — The sales tax authorized in sections 67.1712 to 67.1721 shall be collected and allocated as follows:

(1) Fifty percent of the sales taxes collected from each county shall be deposited in the metropolitan park and recreational fund to be administered by the board of directors of the district to pay costs associated with the establishment, administration, operation and maintenance of public recreational facilities, parks, and public recreational grounds associated with the district. Costs for office administration beginning in the second fiscal year of district operations may be up to but shall not exceed fifteen percent of the amount deposited pursuant to this subdivision;

(2) Fifty percent of the sales taxes collected from each county shall be returned to the source county for park purposes, except that forty percent of such fifty percent amount shall be reserved for distribution to municipalities within the county in the form of grant revenue sharing funds. Each county in the district shall establish its own process for awarding the grant proceeds to its municipalities for park purposes **provided the purposes of such grants are consistent with the purpose of the district.** In the case of a county of the first classification with a charter form of government having a population of at least nine hundred thousand inhabitants, such grant proceeds shall be awarded to municipalities by a municipal grant commission as described in section 67.1757.

67.2000. CREATION OF AN EXHIBITION CENTER AND RECREATIONAL FACILITY DISTRICT, PETITION, HEARING, BALLOT FORM — BOARD OF TRUSTEES, POWERS — TRUST FUND CREATED — SALES TAX AUTHORIZATION, PROCEDURE — DISSOLUTION OF DISTRICT (BUCHANAN, CAMDEN, COLE, GREENE, JEFFERSON, MILLER, MORGAN, NEWTON, AND WRIGHT COUNTIES). — 1. This section shall be known as the "Exhibition Center and Recreational Facility District Act".

2. Whenever not less than fifty owners of real property located within any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants, or any county of the second classification with more than fifty-two thousand six hundred but less than fifty-two thousand seven hundred inhabitants, or any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants, or any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants, or any county of the first classification with more than thirty-seven thousand but less than thirty-seven thousand one hundred inhabitants, or any county of the third classification without a township form of government and with more than twenty-three thousand five hundred but less than twenty-three thousand six hundred

inhabitants, or any county of the third classification without a township form of government and with more than nineteen thousand three hundred but less than nineteen thousand four hundred inhabitants, or any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, or any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants, desire to create an exhibition center and recreational facility district, the property owners shall file a petition with the governing body of each county located within the boundaries of the proposed district requesting the creation of the district. The district boundaries may include all or part of the counties described in this section. The petition shall contain the following information:

(1) The name and residence of each petitioner and the location of the real property owned by the petitioner;

(2) A specific description of the proposed district boundaries, including a map illustrating the boundaries; and

(3) The name of the proposed district.

3. Upon the filing of a petition pursuant to this section, the governing body of any county described in this section may, by resolution, approve the creation of a district. Any resolution to establish such a district shall be adopted by the governing body of each county located within the proposed district, and shall contain the following information:

(1) A description of the boundaries of the proposed district;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The proposed sales tax rate to be voted on within the proposed district; and

(4) The proposed uses for the revenue generated by the new sales tax.

4. Whenever a hearing is held as provided by this section, the governing body of each county located within the proposed district shall:

(1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Rule upon all protests, which determinations shall be final.

5. Following the hearing, if the governing body of each county located within the proposed district decides to establish the proposed district, it shall adopt an order to that effect; if the governing body of any county located within the proposed district decides to not establish the proposed district, the boundaries of the proposed district shall not include that county. The order shall contain the following:

(1) The description of the boundaries of the district;

(2) A statement that an exhibition center and recreational facility district has been established;

(3) The name of the district;

(4) The uses for any revenue generated by a sales tax imposed pursuant to this section; and

(5) A declaration that the district is a political subdivision of the state.

6. A district established pursuant to this section may, at a general, primary, or special election, submit to the qualified voters within the district boundaries a sales tax of one-fourth of one percent, for a period not to exceed twenty-five years, on all retail sales within the district, which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, to fund the acquisition, construction, maintenance, operation, improvement, and

promotion of an exhibition center and recreational facilities. The ballot of submission shall be in substantially the following form:

Shall the (name of district) impose a sales tax of one-fourth of one percent to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities, for a period of (insert number of years)?

YES

NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast in the portion of any county that is part of the proposed district favor the proposal, then the sales tax shall become effective in that portion of the county that is part of the proposed district on the first day of the first calendar quarter immediately following the election. If a majority of the votes cast in the portion of a county that is a part of the proposed district oppose the proposal, then that portion of such county shall not impose the sales tax authorized in this section until after the county governing body has submitted another such sales tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a sales tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters pursuant to this section sooner than twelve months from the date of the last proposal submitted pursuant to this section. If the qualified voters in two or more counties that have contiguous districts approve the sales tax proposal, the districts shall combine to become one district.

7. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated pursuant to this section consisting of four individuals to represent each county approving the district, as provided in this subsection. The governing body of each county located within the district, upon approval of that county's sales tax proposal, shall appoint four members to the board of trustees; at least one shall be an owner of a nonlodging business located within the taxing district, or their designee, at least one shall be an owner of a lodging facility located within the district, or their designee, and all members shall reside in the district except that one nonlodging business owner, or their designee, and one lodging facility owner, or their designee, may reside outside the district. Each trustee shall be at least twenty-five years of age and a resident of this state. Of the initial trustees appointed from each county, two shall hold office for two years, and two shall hold office for four years. Trustees appointed after expiration of the initial terms shall be appointed to a four-year term by the governing body of the county the trustee represents, with the initially appointed trustee to remain in office until a successor is appointed, and shall take office upon being appointed. Each trustee may be reappointed. Vacancies shall be filled in the same manner in which the trustee vacating the office was originally appointed. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. Trustees may be removed if:

(1) By a two-thirds vote, the board moves for the member's removal and submits such motion to the governing body of the county from which the trustee was appointed; and

(2) The governing body of the county from which the trustee was appointed, by a majority vote, adopts the motion for removal.

8. The board of trustees shall have the following powers, authority, and privileges:

(1) To have and use a corporate seal;

(2) To sue and be sued, and be a party to suits, actions, and proceedings;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any

municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a single exhibition center and recreational facilities or to assist in such activity. "Recreational facilities", means locations explicitly designated for public use where the primary use of the facility involves participation in hobbies or athletic activities;

(4) To borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property and income of the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property of the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine;

(5) To acquire, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(6) To refund any bonds, notes, or other obligations of the district without an election. The terms and conditions of refunding obligations shall be substantially the same as those of the original issue, and the board shall provide for the payment of interest at not to exceed the legal rate, and the principal of such refunding obligations in the same manner as is provided for the payment of interest and principal of obligations refunded;

(7) To have the management, control, and supervision of all the business and affairs of the district, and the construction, installation, operation, and maintenance of district improvements therein; to collect rentals, fees, and other charges in connection with its services or for the use of any of its facilities;

(8) To hire and retain agents, employees, engineers, and attorneys;

(9) To receive and accept by bequest, gift, or donation any kind of property;

(10) To adopt and amend bylaws and any other rules and regulations not in conflict with the constitution and laws of this state, necessary for the carrying on of the business, objects, and affairs of the board and of the district; and

(11) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted by this section.

9. There is hereby created the "Exhibition Center and Recreational Facility District Sales Tax Trust Fund", which shall consist of all sales tax revenue collected pursuant to this section. The director of revenue shall be custodian of the trust fund, and moneys in the trust fund shall be used solely for the purposes authorized in this section. Moneys in the trust fund shall be considered nonstate funds pursuant to section 15, article IV, Constitution of Missouri. The director of revenue shall invest moneys in the trust fund in the same manner as other funds are invested. Any interest and moneys earned on such

investments shall be credited to the trust fund. All sales taxes collected by the director of revenue pursuant to this section on behalf of the district, less one percent for the cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in the trust fund. The director of revenue shall keep accurate records of the amount of moneys in the trust fund which was collected in the district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of the officers of each district and the general public. Not later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district. The director of revenue may authorize refunds from the amounts in the trust fund and credited to the district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of the district.

10. The sales tax authorized by this section is in addition to all other sales taxes allowed by law. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, apply to the sales tax imposed pursuant to this section.

11. Any sales tax imposed pursuant to this section shall not extend past the initial term approved by the voters unless an extension of the sales tax is submitted to and approved by the qualified voters in each county in the manner provided in this section. Each extension of the sales tax shall be for a period not to exceed twenty years. The ballot of submission for the extension shall be in substantially the following form:

Shall the (name of district) extend the sales tax of one-fourth of one percent for a period of (insert number of years) years to fund the acquisition, construction, maintenance, operation, improvement, and promotion of an exhibition center and recreational facilities?

YES

NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast favor the extension, then the sales tax shall remain in effect at the rate and for the time period approved by the voters. If a sales tax extension is not approved, the district may submit another sales tax proposal as authorized in this section, but the district shall not submit such a proposal to the voters sooner than twelve months from the date of the last extension submitted.

12. Once the sales tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the sales tax. The sales tax shall not be abolished or terminated while the district has any financing or other obligations outstanding; provided that any new financing, debt, or other obligation or any restructuring or refinancing of an existing debt or obligation incurred more than ten years after voter approval of the sales tax provided in this section or more than ten years after any voter approved extension thereof shall not cause the extension of the sales tax provided in this section or cause the final maturity of any financing or other obligations outstanding to be extended. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities. If the district abolishes the sales tax, the district shall notify the director of revenue of the action at least ninety days before the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the sales tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the sales tax in the district, the director of revenue shall remit the balance in the account to the district and

close the account of the district. The director of revenue shall notify the district of each instance of any amount refunded or any check redeemed from receipts due the district.

13. In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district.

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS (ST. CHARLES COUNTY). — 1. The governing body of any city, town, or village that is within a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505.

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

- (1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;
- (2) The name of the proposed district;
- (3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;
- (4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;
- (5) A request that the district be established;
- (6) A general description of the activities that are planned for the district;
- (7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;
- (8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;
- (9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;
- (10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and
- (11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

- (1) A description of the boundaries of the proposed district and each subdistrict;
- (2) The time and place of a hearing to be held to consider establishment of the proposed district;
- (3) The timeframe and manner for the filing of protests;
- (4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;
- (5) The proposed uses for the revenue to be generated by the new sales tax; and
- (6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in section 67.2520 shall:

- (1) Publish notice of the hearing, which shall include the information contained in the resolution cited in section 67.2520, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;
 - (2) Hear all protests and receive evidence for or against the establishment of the proposed district; and
 - (3) Consider all protests, which determinations shall be final.
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The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax, by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

- (1) The description of the boundaries of the district and each subdistrict;
- (2) A statement that a theater, cultural arts, and entertainment district has been established;
- (3) A declaration that the district is a political subdivision of the state;
- (4) The name of the district;
- (5) The date on which the sales tax election in the subdistricts was held, and the result of the election;
- (6) The uses for any revenue generated by a sales tax imposed pursuant to this section;
- (7) A certification to the newly created district of the election results, including the election concerning the sales tax; and
- (8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, a circuit court with jurisdiction over any city, town, or village that is within a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515.

67.2515. PETITION, CONTENTS, NOTICE — HEARING — DISTRICT DECLARED ORGANIZED, WHEN. — 1. Whenever the creation of a theater, cultural arts, and

entertainment district is desired, one or more registered voters from each subdistrict of the proposed district, or if there are no registered voters in a subdistrict, one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district may file a petition with the circuit court requesting the creation of a theater, cultural arts, and entertainment district. The petition shall contain the following information:

- (1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;
- (2) The name of the proposed district;
- (3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;
- (4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;
- (5) A request that the district be established;
- (6) A general description of the activities that are planned for the district;
- (7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposing of the sales tax be submitted to the qualified voters within the district;
- (8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;
- (9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;
- (10) A signed statement that the petitioners are authorized to submit the petition to the circuit court; and
- (11) Any other items the petitioners deem appropriate.

2. The circuit clerk of the county in which the petition is filed pursuant to this section shall present the petition to the judge, who shall thereupon set the petition for hearing not less than thirty days nor more than forty days after the filing. The judge shall cause publication of the notice of the hearing on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing. The notice shall recite the following information:

- (1) A description of the boundaries of the proposed district and each subdistrict;
- (2) The time and place of a hearing to be held to consider establishment of the proposed district;
- (3) The timeframe and manner for the filing of the petitions or answers in the case;
- (4) The proposed sales tax rate to be voted on within the subdistricts of the proposed district;
- (5) The proposed uses for the revenue generated by the new sales tax; and
- (6) Such other matters as the circuit court may deem appropriate.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

3. Any registered voter or owner of real property within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a judgment respecting these same issues; provided, however, that all pleadings must be filed with the court no later than five days before the case is heard.

4. The court shall hear the case without a jury. If the court determines the petition is defective or the proposed district or its plan of operation is unconstitutional, it shall enter

its judgment to that effect and shall refuse to incorporate the district as requested in the pleadings. If the court determines the petition is not legally defective and the proposed district and plan of operation are not unconstitutional, the court shall order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the circuit clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the circuit judge. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

5. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the circuit judge shall establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by issuing an order to that effect. The court shall determine and declare the district organized and incorporated and issue an order that includes the following:

- (1) The description of the boundaries of the district and each subdistrict;
- (2) A statement that a theater, cultural arts, and entertainment district has been established;
- (3) A declaration that the district is a political subdivision of the state;
- (4) The name of the district;
- (5) The date on which the sales tax election in the subdistricts was held, and the result of the election;
- (6) The uses for any revenue generated by a sales tax imposed pursuant to this section;
- (7) A certification to the newly created district of the election results, including the election concerning the sales tax; and
- (8) Such other matters as the circuit court deems appropriate.

6. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax in the proposed subdistrict before the voters of a proposed subdistrict, and the circuit clerk shall conduct the subsequent election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

7. Any party having filed a petition or answer to a petition may appeal the circuit court's order or judgment in the same manner as provided for other appeals. Any order either refusing to incorporate the district or incorporating the district shall be a final judgment for purposes of appeal.

67.2520. ELECTION CONDUCTED, WHEN — SALES TAX VOTE, AMOUNT — BALLOT FORM. — 1. If a governing body or circuit court judge has certified the question regarding the district creation and sales tax funding for voter approval, the municipal clerk in which the district is located, or the circuit clerk if the order and certification has been by a circuit judge, shall conduct the election. The questions shall be submitted to the qualified voters of each subdistrict within the district boundaries who have filed an application pursuant to this section. The municipal clerk, or the circuit clerk if the district is being formed by

the circuit court, shall publish notice of the election in at least one newspaper of general circulation in the county where the proposed district is located, with the publication to occur not more than fifteen days but not less than ten days before the date when applications for ballots will be accepted. The notice shall include a description of the district boundaries, the timeframe and manner of applying for a ballot, the questions to be voted upon, and where and when applications for ballots will be accepted. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall also send a notice of the election to all registered voters in the proposed district, which shall include the information in the published notice. The costs of printing and publication of the notice, and mailing of the notices to registered voters, shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

2. For elections held in subdistricts pursuant to this section, if all the owners of property in a subdistrict joined in the petition for formation of the district, such owners may cast their ballot by unanimous petition approving any measure submitted to them as subdistrict voters pursuant to this section. Each owner shall receive one vote per acre owned. Fractional votes shall be allowed. The petition shall be submitted to the municipal clerk, or the circuit court clerk if the district is being formed by the circuit court, who shall verify the authenticity of all signatures thereon. The filing of a unanimous petition shall constitute an election in the subdistrict under this section and the results of said election shall be entered pursuant to this section.

3. The sales tax shall be not more than one-half of one percent on all retail sales within the district, which are subject to taxation pursuant to section 67.2530, to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

4. Application for a ballot shall be made as provided in this subsection:

(1) Persons entitled to apply for a ballot in an election shall be:

(a) A resident registered voter of the district; or

(b) If there are no registered voters in a subdistrict, a person, including a corporation or other entity, which owns real property within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. Each property owner shall receive one vote;

(2) Only persons entitled to apply for a ballot in elections pursuant to this subsection shall apply. Such persons shall apply with the municipal clerk, or the circuit clerk if the district is formed by the circuit court. Each person applying shall provide:

(a) Such person's name, address, mailing address, and phone number;

(b) An authorized signature; and

(c) Evidence that such person is entitled to vote. Such evidence shall be a copy of:

a. For resident individuals, proof of registration from the election authority;

b. For owners of real property, a tax receipt or deed or other document which evidences an equitable ownership, and identifies the real property by location;

(3) Applications for ballot applications shall be made not later than the fourth Tuesday before the ballots are mailed to qualified electors. The ballot of submission shall be in substantially the following form:

"Shall there be organized in (here specifically describe the proposed district boundaries), within the state of Missouri, a district, to be known as the "..... Theater,

Cultural Arts, and Entertainment District" for the purpose of funding, promoting, and providing educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and funding, promoting, planning, designing, constructing, improving, maintaining, and operating public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Shall the (name of district) impose a sales tax of (insert rate) to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO";

(4) Not sooner than the fourth Tuesday after the deadline for applying for ballots, the municipal clerk, or the circuit clerk if the district is being formed by the circuit court, shall mail a ballot to each qualified voter who applied for a ballot pursuant to this subsection along with a return addressed envelope directed to the municipal clerk or the circuit clerk's office, with a sworn affidavit on the reverse side of such envelope for the voter's signature. Such affidavit shall be in the following form:

"I hereby declare under penalties of perjury that I am qualified to vote, or to affix my authorized signature in the name of an entity which is entitled to vote, in this election.

Authorized Signature

Printed Name of Voter Signature of notary or other officer authorized to administer oaths.

..... Mailing Address of Voter (if different)

Subscribed and sworn to before me this day of, 20.."

(5) Each qualified voter shall have one vote, except as provided for in section 67.2520. Each voted ballot shall be signed with the authorized signature as provided for in this subsection;

(6) Voted ballots shall be returned to the municipal clerk, or the clerk of the circuit court if the district is being formed by the circuit court, by mail or hand delivery no later than 5:00 p.m. on the fourth Tuesday after the date for mailing the ballots. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall transmit all voted ballots to a beam of judges of not less than four, with an equal number from each of the two major political parties. The judges shall be selected by the city, town, or village, or the circuit clerk, from lists compiled by the county election authority. Upon receipt of the voted ballots the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the governing body of the city, town, or village for further action, or the circuit judge for further action if the district is being formed by the circuit court. Any voter who applied for such election may contest the result in the same manner as provided in chapter 115, RSMo.

67.2525. BOARD OF DIRECTORS, QUALIFICATIONS — SUBDIVISION OF DISTRICT, HOW — POWERS AND DUTIES OF THE BOARD. — 1. Each member of the board of directors shall have the following qualifications:

(1) As to those subdistricts in which there are registered voters, a resident registered voter in the subdistrict that he or she represents, or be a property owner or, as to those

subdistricts in which there are not registered voters who are residents, a property owner or representative of a property owner in the subdistrict he or she represents;

(2) Be at least twenty-one years of age and a registered voter in the district.

2. The district shall be subdivided into at least five, but not more than fifteen subdistricts, which shall be represented by one representative on the district board of directors. All board members shall have terms of four years, including the initial board of directors. All members shall take office upon being appointed and shall remain in office until a successor is appointed by the mayor or chairman of the municipality in which the district is located, or elected by the property owners in those subdistricts without registered voters.

3. For those subdistricts which contain one or more registered voters, the mayor or chairman of the city, town, or village shall, with the consent of the governing body, appoint a registered voter residing in the subdistrict to the board of directors.

4. For those subdistricts which contain no registered voters, the property owners who collectively own one or more parcels of real estate comprising more than half of the land situated in each subdistrict shall meet and shall elect a representative to serve upon the board of directors. The clerk of the city, town, or village in which the petition was filed shall, unless waived in writing by all property owners in the subdistrict, give notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, to call a meeting of the owners of real property within the subdistrict at a day and hour specified in a public place in the city, town, or village in which the petition was filed for the purpose of electing members of the board of directors.

5. The property owners, when assembled, shall organize by the election of a temporary chairman and secretary of the meeting who shall conduct the election. An election shall be conducted for each subdistrict, with the eligible property owners voting in that subdistrict. At the election, each acre of real property within the subdistrict shall represent one share, and each owner, including corporations and other entities, may have one vote in person or for every acre of real property owned by such person within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. The results of the meeting shall be certified by the temporary chairman and secretary to the municipal clerk if the district is established by a municipality described in this section, or to the circuit clerk if the district is established by a circuit court.

6. Successor boards shall be appointed or elected, depending upon the presence or absence of resident registered voters, by the mayor or chairman of a city, town, or village described in this section, or the property owners as set forth above; provided, however, that elections held by the property owners after the initial board is elected shall be certified to the municipal clerk of the city, town, or village where the district is located and the board of directors of the district.

7. Should a vacancy occur on the board of directors, the mayor or chairman of the city, town, or village if there are registered voters within the subdistrict, or a majority of the owners of real property in a subdistrict if there are not registered voters in the subdistrict, shall have the authority to appoint or elect, as set forth in this section, an interim director to complete any unexpired term of a director caused by resignation or disqualification.

8. The board shall possess and exercise all of the district's legislative and executive powers, including:

(1) The power to fund, promote and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities within the district;

(2) The power to accept and disburse tax or other revenue collected in the district; and

(3) The power to receive property by gift or otherwise.

9. Within thirty days after the selection of the initial directors, the board shall meet. At its first meeting and annually thereafter the board shall elect a chairman from its members.

10. The board shall appoint an executive director, district secretary, treasurer, and such other officers or employees as it deems necessary.

11. At the first meeting, the board, by resolution, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal.

12. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board, and approve any board resolution.

13. At the first meeting, the board, by resolution, shall receive the certification of the election regarding the sales tax, and may impose the sales tax in all subdistricts approving the imposing sales tax. In those subdistricts that approve the sales tax, the sales tax shall become effective on the first day of the first calendar quarter immediately following the action by the district board of directors imposing the tax.

14. Each director shall devote such time to the duties of the office as the faithful discharge thereof and may require and be reimbursed for his actual expenditures in the performance of his duties on behalf of the district. Directors may be compensated, but such compensation shall not exceed one hundred dollars per month.

15. In addition to all other powers granted by sections 67.2500 to 67.2530, the district shall have the following general powers:

(1) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;

(2) To fix compensation of its employees and contractors;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation, interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a district facility or to assist in such activity;

(4) To acquire, develop, construct, equip, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(5) To collect and disburse funds for its activities;

(6) To collect taxes and other revenues;

(7) To borrow money and incur indebtedness and evidence the same by certificates, notes, bonds, debentures, or refunding of any such obligations for the purpose of paying all or any part of the cost of land, construction, development, or equipping of any facilities or operations of the district;

(8) To own or lease real or personal property for use in connection with the exercise of powers pursuant to this subsection;

(9) To provide for the election or appointment of officers, including a chairman, treasurer, and secretary. Officers shall not be required to be residents of the district, and one officer may hold more than one office;

(10) To hire and retain agents, employees, engineers, and attorneys;

(11) To enter into entertainment contracts binding the district and artists, agencies, or performers, management contracts, contracts relating to the booking of entertainment and the sale of tickets, and all other contracts which relate to the purposes of the district;

(12) To contract with a local government, a corporation, partnership, or individual regarding funding, promotion, planning, designing, constructing, improving, maintaining, or operating a project or to assist in such activity;

(13) To contract for transfer to a city, town, or village such district facilities and improvements free of cost or encumbrance on such terms set forth by contract;

(14) To exercise such other powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

16. A district may at any time authorize or issue notes, bonds, or other obligations for any of its powers or purposes. Such notes, bonds, or other obligations:

(1) Shall be in such amounts as deemed necessary by the district, including costs of issuance thereof;

(2) Shall be payable out of all or any portion of the revenues or other assets of the district;

(3) May be secured by any property of the district which may be pledged, assigned, mortgaged, or otherwise encumbered for payment;

(4) Shall be authorized by resolution of the district, and if issued by the district, shall bear such date or dates, and shall mature at such time or times, but not in excess of forty years, as the resolution shall specify;

(5) Shall be in such denomination, bear interest at such rates, be in such form, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places and subject to redemption as such resolution may provide; and

(6) May be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

The provisions of this subsection are applicable to the district notwithstanding the provisions of section 108.170, RSMo.

67.2530. REFUND OF DISTRICT INDEBTEDNESS, WHEN, HOW — IMPOSITION OF A SALES TAX AUTHORIZED — DEPOSIT AND USE OF SALES TAX REVENUE — REPEAL OF SALES TAX, BALLOT FORM. — 1. Any note, bond, or other indebtedness of the district may be refunded at any time by the district by issuing refunding bonds in such amount as the district may deem necessary. Such bonds shall be subject to, and shall have the benefit of the foregoing provisions regarding notes, bonds, and other obligations. Without limiting the generality of the foregoing, refunding bonds may include amounts necessary to finance any premium, unpaid interest, and costs of issuance in connection with the refunding bonds. Any such refunding may be effected whether the bonds to be refunded then shall have matured or thereafter shall mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations being refunded or the exchange of the refunding bonds for the obligations being refunded with the consent of the holders of the obligations being refunded.

2. Notes, bonds, or other indebtedness of the district shall be exclusively the responsibility of the district payable solely out of the district funds and property and shall not constitute a debt or liability of the state of Missouri or any agency or political subdivision of the state. Any notes, bonds, or other indebtedness of the district shall state on their face that they are not obligations of the state of Missouri or any agency or political subdivision thereof other than the district.

3. Any district may by resolution impose a district sales tax of up to one half of one percent on all retail sales made in such district that are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon voter approval, and receiving the

necessary certifications from the governing body of the municipality in which the district is located, or from the circuit court if the district was formed by the circuit court, the board of directors shall have the power to impose a sales tax at its first meeting, or any meeting thereafter. Voter approval of the question of the imposing sales tax shall be in accordance with section 67.2520 of this section. The sales tax shall become effective in those subdistricts that approve the sales tax on the first day of the first calendar quarter immediately following the passage of a resolution by the board of directors imposing the sales tax.

4. In each district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the district pursuant to this section to the retailer's sale price, and when so added, such tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

5. In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285, RSMo.

6. All revenue received by a district from the sales tax authorized by this section shall be deposited in a special trust fund and shall be used solely for the purposes of the district. Any funds in such special trust fund which are not needed for the district's current expenditures may be invested by the district board of directors in accordance with applicable laws relating to the investment of other district funds.

7. The sales tax may be imposed at a rate of up to one half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo. Any district sales tax imposed pursuant to this section shall be imposed at a rate that shall be uniform throughout the subdistricts approving the sales tax.

8. The resolution imposing the sales tax pursuant to this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax and the tax shall be reported and returned to and collected by the district.

9. (1) On and after the effective date of any sales tax imposed pursuant to this section, the district shall perform all functions incident to the administration, collection, enforcement, and operation of the tax. The sales tax imposed pursuant to this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the district.

(2) All such sales taxes collected by the district shall be deposited by the district in a special fund to be expended for the purposes authorized in this section. The district shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to the inspection of officers of each district and the general public.

(3) The district may contract with the municipality that the district is within for the municipality to collect any revenue received by the district and, after deducting the cost of such collection, but not to exceed one percent of the total amount collected, deposit such revenue in a special trust account. Such revenue and interest may be applied by the

municipality to expenses, costs, or debt service of the district at the direction of the district as set forth in a contract between the municipality and the district.

10. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.

(2) All exemptions granted to agencies of government, organizations, persons, and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section.

(3) The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

(4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made applicable to any taxes collected pursuant to the provisions of this section.

(5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for violation of those sections are hereby made applicable to violations of this section.

(6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all retail sales shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

(7) Subsequent to the initial approval by the voters and implementation of a sales tax in the district, the rate of the sales tax may be increased, but not to exceed a rate of one-half of one percent on retail sales as provided in this subsection. The election shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the increase of the sales tax before the voters of the district by resolution, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district, shall conduct the subsequent election. In subsequent elections, the election judges shall certify the election results to the district board of directors. The ballot of submission shall be in substantially the following form:

"Shall (name of district) increase the (insert amount) percent district sales tax now in effect to (insert amount) in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the increase, the increase shall become effective December thirty-first of the calendar year in which such increase was approved.

11. (1) There shall not be any election as provided for in this section while the district has any financing or other obligations outstanding.

(2) The board, when presented with a petition signed by at least one-third of the registered voters in a district that voted in the last gubernatorial election, or signed by at least two-thirds of property owners of the district, calling for an election to dissolve and repeal the tax shall submit the question to the voters using the same procedure by which the imposing tax was voted. The ballot of submission shall be in substantially the following form:

"Shall (name of district) dissolve and repeal the (insert amount) percent district sales tax now in effect in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Such subsequent elections for the repeal of the sales tax shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the repeal of the sales tax before the voters of the district, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district, shall conduct the subsequent election. In subsequent elections the election judges shall certify the election results to the district board of directors.

(3) If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the district's indebtedness, whichever occurs later.

12. (1) At such time as the board of directors of the district determines that further operation of the district is not in the best interests of the inhabitants of the district, and that the district should dissolve, the board shall submit for a vote in an election held throughout the district the question of whether the district should be abolished. The question shall be submitted in substantially the following form:

"Shall the theater, cultural arts, and entertainment district be abolished?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(2) The district board shall not propose the question to abolish the district while there are outstanding claims or causes of action pending against the district, while the district liabilities exceed its assets, while indebtedness of the district is outstanding, or while the district is insolvent, in receivership or under the jurisdiction of the bankruptcy court. Prior to submitting the question to abolish the district to a vote of the entire district, the state auditor shall audit the district to determine the financial status of the district, and whether the district may be abolished pursuant to law. The vote on the abolition of the district shall be conducted by the municipal clerk of the city, town, or village in which the district is located. The procedure shall be the same as in section 67.2520, except that the question shall be determined by the qualified voters of the entire district. No individual subdistrict may be abolished, except at such time as the district is abolished.

(3) While the district still exists, it shall continue to accrue all revenues to which it is entitled at law.

(4) Upon receipt by the board of directors of the district of the certification by the city, town, or village in which the district is located that the majority of those voting within the entire district have voted to abolish the district, and if the state auditor has determined

that the district's financial condition is such that it may be abolished pursuant to law, then the board of directors of the district shall:

(a) Sell any remaining district real or personal property it wishes, and then transfer the proceeds and any other real or personal property owned by the district to the city, town, or village in which the district is located, including revenues due and owing the district, for its further use and disposition;

(b) Terminate the employment of any remaining district employees, and otherwise conclude its affairs;

(c) At a public meeting of the district, declare by a resolution of the board of directors passed by a majority vote that the district has been abolished effective that date;

(d) Cause copies of that resolution under seal to be filed with the secretary of state and the city, town, or village in which the district is located. Upon the completion of the final act specified in this subsection, the legal existence of the district shall cease.

(5) The legal existence of the district shall not cease for a period of two years after voter approval of the abolition.

144.757. LOCAL USE TAX TO FUND COMMUNITY COMEBACK PROGRAM — RATE OF TAX — ST. LOUIS COUNTY — BALLOT OF SUBMISSION — NOTICE TO DIRECTOR OF REVENUE — REPEAL OR REDUCTION OF LOCAL SALES TAX, EFFECT ON LOCAL USE TAX. —

1. Any county or municipality, except municipalities within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand may, by a majority vote of its governing body, impose a local use tax if a local sales tax is imposed as defined in section 32.085, RSMo, at a rate equal to the rate of the local sales tax in effect in such county or municipality; provided, however, that no ordinance or order enacted pursuant to sections 144.757 to 144.761 shall be effective unless the governing body of the county or municipality submits to the voters thereof at a municipal, county or state general, primary or special election [prior to August 7, 1996, or after December 31, 1996,] a proposal to authorize the governing body of the county or municipality to impose a local use tax pursuant to sections 144.757 to 144.761. Municipalities within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand may, upon voter approval received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section, impose a local use tax at the same rate as the local municipal sales tax with the revenues from all such municipal use taxes to be distributed pursuant to subsection 4 of section 94.890, RSMo. The municipality shall within thirty days of the approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section select one of the distribution options permitted in subsection 4 of section 94.890, RSMo, for distribution of all municipal use taxes.

2. (1) The ballot of submission, except for counties and municipalities described in subdivisions (2) and (3) of this subsection, shall contain substantially the following language:

Shall the (county or municipality's name) impose a local use tax at the same rate as the total local sales tax rate, currently (insert percent), provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(2) (a) The ballot of submission in a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

For the purposes of [preventing neighborhood decline, demolishing old deteriorating and vacant buildings, rehabilitating historic structures, cleaning polluted sites, promoting reinvestment in neighborhoods by creating the (name of county) Community Comeback Program; and for the

purposes of] **economic development and** enhancing local government services[;], shall the county [governing body] be authorized to collect a local use tax equal to the total of the existing county sales tax rate of (insert tax rate), provided that if the county sales tax is repealed, reduced or raised by voter approval, the local use tax rate shall also be repealed, reduced or raised by the same voter action? [The Community Comeback Program] **Fifty percent of the revenue shall be used for economic development, including retention, creation, and attraction of better paying jobs, and fifty percent shall be used for enhancing local government services. The county shall be required to [submit] make available to the public [a] an audited comprehensive financial report detailing the management and use of economic development funds each year.**

A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers and on certain taxable business transactions. A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(b) The ballot of submission in a municipality within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

Shall the municipality be authorized to impose a local use tax at the same rate as the local sales tax by a vote of the governing body, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(3) The ballot of submission in any city not within a county shall contain substantially the following language:

Shall the (city name) impose a local use tax at the same rate as the local sales tax, currently at a rate of (insert percent) which includes the capital improvements sales tax and the transportation tax, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the director of revenue receives notice of adoption of the local use tax on or before August 16, 1996. If any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the calendar quarter which begins at least forty-five days after the director of revenue receives notice of adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall have no power to impose the local use tax as herein authorized unless and until the governing body of the county or municipality shall again have submitted another proposal to authorize the governing body of the county or municipality to impose the local use tax [pursuant to sections

144.757 to 144.761] and such proposal is approved by a majority of the qualified voters voting thereon.

3. The local use tax may be imposed at the same rate as the local sales tax then currently in effect in the county or municipality upon all transactions which are subject to the taxes imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the local sales tax.

4. For purposes of sections 144.757 to 144.761 [and sections 67.478 to 67.493, RSMo], the use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions. Such a description shall not change the classification, form or subject of the use tax or the manner in which it is collected.

144.759. COLLECTION OF ADDITIONAL LOCAL USE TAX FOR ECONOMIC DEVELOPMENT — DEPOSIT IN LOCAL USE TAX TRUST FUND, NOT PART OF STATE REVENUE — DISTRIBUTION TO COUNTIES AND MUNICIPALITIES — REFUNDS — NOTIFICATION TO DIRECTOR OF REVENUE ON ABOLISHMENT OF TAX — ECONOMIC DEVELOPMENT DEFINED.

— 1. All local use taxes collected by the director of revenue pursuant to sections 144.757 to 144.761 on behalf of any county or municipality, less one percent for cost of collection, which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited with the state treasurer in a local use tax trust fund, which fund shall be separate and apart from the local sales tax trust funds. The moneys in such local use tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each county or municipality imposing a local use tax, and the records shall be open to the inspection of officers of the county or municipality and to the public. No later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month, except as provided in subsection 2 of this section, to the county or municipality treasurer, or such other officer as may be designated by the county or municipality ordinance or order, of each county or municipality imposing the tax authorized by sections 144.757 to 144.761, the sum due the county or municipality as certified by the director of revenue.

2. The director of revenue shall distribute all moneys which would be due any county [of the first classification] having a charter form of government and having a population of nine hundred thousand or more to the county treasurer or such other officer as may be designated by county ordinance, who shall distribute such moneys as follows: the portion of the use tax imposed by the county which equals one-half the rate of sales tax in effect for such county shall be disbursed to the county [community comeback trust authorized pursuant to sections 67.478 to 67.493, RSMo] **treasurer for expenditure for economic development purposes, as defined in this section, subject to any qualifications and regulations adopted by ordinance of the county. Such ordinance shall require an audited comprehensive financial report detailing the management and use of economic development funds each year. Such ordinance shall require that the county and the municipal league of the county jointly prepare an economic development strategy to guide expenditures of funds and conduct an annual review of the strategy.** The treasurer or such other officer as may be designated by county ordinance shall distribute one-third of the balance to the county and to each city, town and village in group B according to section 66.620, RSMo, as modified by this section, a portion of the **two-thirds** remainder of such balance equal to the percentage ratio that the population of each such city, town or village bears to the total population of all such group B cities, towns and villages. For the purposes of this subsection, population shall be determined by the last federal decennial census or the latest census that determines the total population of the county and all

political subdivisions therein. For the purposes of this subsection, each city, town or village in group A according to section 66.620, RSMo, but whose per capita sales tax receipts during the preceding calendar year pursuant to sections 66.600 to 66.630, RSMo, were less than the per capita countywide average of all sales tax receipts during the preceding calendar year, shall be treated as a group B city, town or village until the per capita amount distributed to such city, town or village equals the difference between the per capita sales tax receipts during the preceding calendar year and the per capita countywide average of all sales tax receipts during the preceding calendar year.

3. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties or municipalities. If any county or municipality abolishes the tax, the county or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall authorize the state treasurer to remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

4. Except as modified in sections 144.757 to 144.761, all provisions of sections 32.085 and 32.087, RSMo, applicable to the local sales tax, except for subsection 12 of section 32.087, RSMo, and all provisions of sections 144.600 to 144.745 shall apply to the tax imposed pursuant to sections 144.757 to 144.761, and the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax.

5. As used in this section, "economic development" means:

(1) Expenditures for infrastructure and sites for business development or for public infrastructure projects;

(2) Purchase, assembly, clearance, demolition, environmental remediation, planning, redesign, reconstruction, rehabilitation, construction, modification or expansion of land, structures and facilities, public or private, either in connection with a reinvestment project in areas with underused, derelict, economically challenged, or environmentally troubled sites, or in connection with business attraction, retention, creation, or expansion;

(3) Expenditures related to business district activities such as facade improvements, landscaping, street lighting, sidewalk construction, trash receptacles, park benches, and other public improvements;

(4) Expenditures for the provision of workforce training and educational support in connection with job creation, retention, attraction, and expansion;

(5) Development and operation of business incubator facilities, and related entrepreneurship support programs;

(6) Capitalization or guarantee of small business loan or equity funds;

(7) Expenditures for business development activities including attraction, creation, retention, and expansion; and

(8) Related administration expenses of economic and community development programs, provided that such expenses shall not exceed five percent of annual revenues.

644.032. SALES TAX FOR PURPOSE OF STORM WATER CONTROL OR LOCAL PARKS OR BOTH MAY BE IMPOSED BY ANY COUNTY OR MUNICIPALITY — TAX, HOW CALCULATED — VOTER APPROVAL — BALLOT FORM — EFFECTIVE WHEN — FAILURE OF TAX, RESUBMISSION, WHEN — REVENUE MAY BE USED FOR PARKS LOCATED OUTSIDE OF COUNTY

OR MUNICIPALITY, WHEN. — 1. The governing body of any municipality or county may impose, by ordinance or order, a sales tax in an amount not to exceed one-half of one percent on all retail sales made in such municipality or county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section and section 644.033 shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax under the provisions of this section and section 644.033 shall be effective unless the governing body of the municipality or county submits to the voters of the municipality or county, at a municipal, county or state general, primary or special election, a proposal to authorize the governing body of the municipality or county to impose a tax, **provided, that the tax authorized by this section shall not be imposed on the sales of food, as defined in section 144.014, RSMo, when imposed by any county with a charter form of government and with more than one million inhabitants.**

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the municipality (county) of impose a sales tax of (insert amount) for the purpose of providing funding for (insert either storm water control, or local parks, or storm water control and local parks) for the municipality (county)?

☐ YES ☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality or county shall not impose the sales tax authorized in this section and section 644.033 until the governing body of the municipality or county resubmits another proposal to authorize the governing body of the municipality or county to impose the sales tax authorized by this section and section 644.033 and such proposal is approved by a majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant to this section and section 644.033 be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section and section 644.033.

3. All revenue received by a municipality or county from the tax authorized under the provisions of this section and section 644.033 shall be deposited in a special trust fund and shall be used to provide funding for storm water control or for local parks, or both, within such municipality or county, provided that such revenue may be used for local parks outside such municipality or county if the municipality or county is engaged in a cooperative agreement pursuant to section 70.220, RSMo.

4. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal or county funds.

[67.478. TITLE. — Sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493 shall be known and may be cited as the "Community Comeback Act".]

[67.481. DEFINITIONS. — As used in sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493, the following terms mean:

(1) "Community comeback plan" and "plan", a comprehensive countywide plan adopted by the community comeback trust board and the governing body of the county that identifies potential areas for reinvestment, projects and strategies to promote neighborhood reinvestment throughout the county, and that clearly identifies on a map the priority comeback communities. The plan shall be a five-year strategic and operating plan, complete with goals, objectives, targets and mechanisms or methods of measuring accomplishments, revised annually;

(2) "Community comeback program", "community comeback trust" and "trust", a fund held in the treasury of the county which shall be the repository for all taxes and other moneys raised

pursuant to sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493, and authorized by the governing body of the county for the purposes of promoting neighborhood reinvestment;

(3) "Community comeback program board", "community comeback trust board" and "board", the entity established pursuant to sections 67.478 to 67.493 that is responsible for administering the comeback community trust;

(4) "Community comeback trust citizen advisory committee" and "advisory committee", an eleven-member committee established pursuant to sections 67.478 to 67.493 that is responsible for advising the community comeback fund board on the best methods of promoting neighborhood reinvestment;

(5) "Eligible expenses", costs qualified for funding through the community comeback trust which are:

(a) Incurred for the purchase, assembly, clearance, demolition and environmental remediation of land, structures and facilities, public or private, either as part of a neighborhood reinvestment project or to prepare sites for future use in areas with underutilized, derelict, economically challenged or environmentally troubled sites;

(b) Related to planning, redesign, clearance, reconstruction, structure rehabilitation, site remediation, construction, modification, expansion, remodeling, structural alteration, replacement or renovation of any structure in a priority comeback community;

(c) Expended for capital improvements or infrastructure improvements to facilitate economic development;

(d) Expended for residential redevelopment including, but not limited to, buyouts, land-assembly costs, infrastructure improvements and costs associated with preparing sites for housing construction; professional service expenses such as architectural, planning, engineering, design, marketing or other related expenses;

(e) Related to community improvement district or special business district expenses such as facade improvements, landscaping, street lighting, sidewalk construction, trash receptacles, park benches and other public improvements;

(f) Expenses related to facilitating transit-oriented developments, home improvement and home buyer loan programs; and

(g) Expenses eligible for funding through the select neighborhood action program;

(6) "Neighborhood reinvestment project" and "project", the planning, development, redesign, clearance, reconstruction or rehabilitation or any combination thereof in order to improve those residential, commercial, industrial, public or other structures or spaces and the infrastructure serving them as may be appropriate or necessary in the interest of the general welfare;

(7) "Petition", a petitioner's request for funding made to the community comeback trust;

(8) "Petitioner", the governing body of any municipality, the governing body of the county, any land clearance for redevelopment authority within the county organized pursuant to chapter 99, RSMo, or any not-for-profit economic development organization with a governing board not less than two-thirds of the members of which are appointed by the chief elected official of the county or by one or more organizations with governing boards appointed by the chief elected official;

(9) "Priority comeback community", an area in a county which encompasses an entire United States census block group and has a median household income below the median household income for such entire county;

(10) "Priority comeback project", a funding proposal submitted to a community comeback trust by a petitioner whose area is substantially within a priority comeback community;

(11) "Proposal", a petitioner's funding request for the eligible expenses of a neighborhood reinvestment project submitted to a trust by a petitioner;

(12) "Select neighborhood action program" and "SNAP", a grant program, administered and funded pursuant to subsection 5 of section 67.490;

(13) "Select neighborhood action program applicant" and "SNAP applicant", a neighborhood organization or not-for-profit organization whose mission is consistent with the community comeback plan. The organization shall have a municipal sponsor or a county sponsor if the area is unincorporated. The organization shall have been in existence for at least six months and meet at least once a year in order to be eligible for a SNAP grant;

(14) "SNAP grant", an endowment of money by the board to a SNAP applicant pursuant to subsection 5 of section 67.490.]

[67.484. ST. LOUIS COUNTY AUTHORIZED TO FORM COMMUNITY COMEBACK TRUST, PURPOSES, FORMATION — BOARD, COMPOSITION, NOMINATION, POWERS, DUTIES, RESTRICTIONS — FUNDING, LOCAL SALES TAX, BOND ISSUANCE, VALIDITY, PAYMENT. — 1. A community comeback trust may be created, incorporated and managed pursuant to this section by any county of the first classification with a charter form of government and a population of at least nine hundred thousand inhabitants according to the last decennial census, and may exercise the powers given to such trust pursuant to sections 67.478 to 67.493. A trust may sue and be sued, issue general revenue bonds and receive county use tax revenue pursuant to the limitations of this section. A trust shall have as its primary duties the prevention of neighborhood decline, the demolition of old deteriorating and vacant buildings, rehabilitating historic structures, the cleaning of polluted sites and the promotion of neighborhood reinvestment where such investment is essential to reverse or stabilize a stagnant or declining pattern in household income, assessed values, occupancies and related characteristics.

2. The governing body of the county is hereby authorized to impose by ordinance a local use tax pursuant to sections 144.757 to 144.761, RSMo, for the purpose of funding the creation, operation and maintenance of a community comeback trust, as well as to provide revenue to the county and municipalities authorized to receive moneys generated by said tax pursuant to section 144.759, RSMo. The governing body of the county enacting such an ordinance shall submit to the voters of such county a proposal to approve its ordinance imposing the tax. Such ordinance shall become effective only after the majority of the voters voting on such ordinance approve such ordinance. The question shall be submitted to the voters in the county pursuant to section 144.757, RSMo.

3. (1) The community comeback trust board shall be composed of seven members as provided in this subsection. No member shall be an elected official, employee or contractor of the county or any municipality within the county or of any organization representing the county or any municipality within the county. Board members shall be citizens of the United States and shall reside within the county. No two members of the board shall be residents of the same county council district of such county. No member shall receive compensation for performance of board duties. No member shall be financially interested directly or indirectly in any contract entered into by the trust or by any petitioner. In the event that any property owned by a board member or the immediate family member of such board member is located in a priority comeback community, the member shall disclose such information to the board and abstain from any formal or informal actions regarding any project in that neighborhood.

(2) The chief elected official of any municipality wholly within the county and any member of the governing body of the county shall nominate individuals to serve on the board by providing a list of nominees to the county executive who shall appoint the members. Of the total members, at least four shall be residents of municipalities within the county and at least one shall have each of the following professions: a professional architect or engineer; an urban planner or design professional; a developer or builder; and an accountant or an attorney.

(3) The seat of a member shall be automatically vacated when the member changes his or her residence so as to no longer conform to the terms of the requirements of the member's appointment. The board shall promptly notify the county executive of such a change of residence, the pending expiration of any member's term, any member's need to vacate his or her

seat or any vacancy on the board. A member whose term has expired shall continue to serve until the successor is appointed and qualified.

(4) Upon the passage of an ordinance by the governing body of the county establishing the community comeback trust, the governing body of the county shall, within ten days, send by United States mail written notice of the passage of the ordinance to the chief elected officials of each municipality wholly in the county.

(5) Each of the nominating authorities described in subdivision (2) of this subsection shall, within forty-five days of the passage of the ordinance establishing the board or within fourteen days of being notified of a board vacancy by the county executive, submit its list of nominees to the county executive. The county executive shall appoint members within sixty days of the passage of the ordinance or within thirty days of being notified by the board of a vacancy on the board. If a list of nominees is not submitted by the time specified, the county executive shall appoint the members using the criteria set forth in this section.

(6) At the first meeting of the board appointed after the effective date of the ordinance, the members shall choose by lot the length of their terms. Three shall serve for one year, two for two years, and two for three years. All succeeding members shall serve terms of three years. Terms shall end on December thirty-first of the respective year. No member shall serve more than two consecutive full terms. Full terms shall include any term longer than two years.

4. The board, its employees and subcontractors shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records pursuant to chapter 610, RSMo. The board shall enact and adopt all rules, regulations and procedures that are reasonably necessary to achieve the objectives of sections 67.478 to 67.493, and not inconsistent therewith, no sooner than twenty-seven calendar days after notifying all municipalities and the county of the proposed rule, regulation or procedure enactment or change. Notice may be given by ordinary mail, by electronic mail or by publishing in at least one newspaper of general circulation qualified to publish legal notices. No new or amended rule, regulation or procedure shall apply retroactively to any proposal pending before the trust without the agreement of the petitioner. The board shall have the exclusive control of the expenditures of all money collected to the credit of the trust, subject to annual appropriations by the governing body of the county. The county government shall provide the trust staff. No more than five percent of the trust's annual budget shall be used for the trust's annual administrative expenses.

5. The trust is authorized to issue bonds, notes or other obligations for any proposal, and to refund such bonds, notes or obligations, as provided in subsection 3 of this section; and to receive and liquidate property, both real and personal, or money which has been granted, donated, devised or bequeathed to the district. The trust shall not have any power of eminent domain.

6. (1) Bonds issued pursuant to this section shall be issued pursuant to a resolution adopted by five-sevenths of the board which shall set out the estimated cost to the trust of the proposed improvements, and shall further set out the amount of the bonds to be issued, their purpose or purposes, their date or dates, denomination or denominations, rate or rates of interest, time or times of payment, both of principal and of interest, place or places of payment and all other details in connection with such bonds. Any such bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the resolution.

(2) Notwithstanding the provisions of section 108.170, RSMo, such bonds shall bear interest at rate or rates determined by the trust, shall mature within a period not exceeding twenty years and may be sold at public or private sale for not less than ninety-five percent of the principal amount of such bonds. Bonds issued by the trust shall possess all of the qualities of negotiable instruments pursuant to the laws of this state.

(3) Such bonds may be payable to the bearer, may be registered or coupon bonds, and, if payable to bearer, may contain such registration provisions as to either principal and interest, or

principal only, as may be provided in the resolution authorizing such bonds, which resolution may also provide for the exchange of registered and coupon bonds. Such bonds and any coupons attached thereto shall be signed in such manner and by such officers of the district as may be provided by the resolution authorizing the bonds. The trust may provide for the replacement of any bond which has become mutilated, destroyed or lost.

(4) Bonds issued by the trust shall be payable as to principal, interest and redemption premium, if any, out of all or any part of the trust fund, including revenues derived from use taxes. Neither the board members nor any person executing the bonds shall be personally liable on such bonds by reason of the issuance of such bonds. Bonds issued pursuant to this section shall not constitute a debt, liability or obligation of this state, or any political subdivision of this state, nor shall any such obligations be a pledge of the faith and credit of this state, but shall be payable solely from the revenues and assets held by the trust. The issuance of bonds pursuant to this section shall not directly, indirectly or contingently obligate this state or any political subdivision of this state to levy any form of taxation for such bonds or to make any appropriation for their payment. Each obligation or bond issued pursuant to this section shall contain on its face a statement to the effect that the trust shall not be obligated to pay such bond nor interest on such bond except from the revenues received by the trust or assets of the trust lawfully pledged for such trust, and that neither the faith or credit nor the taxing power of this state or of any political subdivision of this state is pledged to the payment of the principal of or the interest on such obligation or bond. The proceeds of such bonds shall be disbursed in such manner and pursuant to such restrictions as the trust may provide in the resolution authorizing the issuance of such bonds.

(5) The trust may issue negotiable refunding bonds for the purpose of refunding, extending or unifying the whole or any part of such bonds then outstanding, or any bonds, notes or other obligations issued by any other public agency, public body or political subdivision in connection with any facilities or land to be acquired, leased or subleased by the trust, which refunding bonds shall not exceed the amount necessary to refund the principal of the outstanding bonds to be refunded and the accrued interest on such bonds to the date of such refunding, together with any redemption premium, amounts necessary to establish reserve and escrow funds and all costs and expenses incurred in connection with the refunding. The board shall provide for the payment of interest and principal of such refunding bonds in the same manner as was provided for the payment of interest and principal of the bonds refunded.

(6) In the event that any of the members or officers of the trust whose names appear on any bonds or coupons shall cease to be on the board or cease to be an officer before the delivery of such bonds, such signatures shall remain valid and sufficient for all purposes, the same as if such board members or officers had remained in office until such delivery.

(7) The trust is hereby declared to be performing a public function and bonds of the trust are declared to be issued for an essential public and governmental purpose, and, accordingly, interest on such bonds and income from such bonds shall be exempt from income taxation by this state. All purchases in excess of ten thousand dollars shall be made pursuant to the lowest and best bid standard as provided in section 34.040, RSMo, or pursuant to the lowest and best proposal standard as provided in section 34.042, RSMo. The board of the trust shall have the same discretion, powers and duties as the commissioner of administration has in sections 34.040 and 34.042, RSMo.]

[67.487. COMMUNITY COMEBACK PLAN, NOTIFICATION, DEVELOPMENT, DISTRIBUTION, ANNUAL REVISION AND ADOPTION — REPORTS AND AUDITS REQUIRED — ADVISORY COMMITTEE TO BE ESTABLISHED BY THE BOARD. — 1. Within fourteen days of the first meeting of the first board appointed following the effective date of the ordinance, the board shall notify by mail the chief elected officials of all municipalities wholly within the county, the chief elected official of the county and all the members of the governing body of the county of the requirement to conduct a planning process and adopt a community comeback plan.

2. The board shall solicit full citizen, county and municipal involvement in developing the plan. The board shall conduct public hearings throughout the county to seek input regarding the plan, and may convene meetings with the appropriate staff of the county and municipalities in order to seek input and to coordinate the logistics of producing the plan. A copy of the plan shall be sent to the chief elected official of every municipality wholly within the county, the chief elected official of the county and each member of the governing body of the county.

3. The board and the governing body of the county shall annually revise and adopt a plan.

4. Each plan shall include a map of the county, as well as a text enumerating the efforts expected each year in the various subregions of the county. Each plan shall address the factors that are causing or are likely to cause one or more of the following:

- (1) Assessed values below the county average;
- (2) Median household incomes below the county median;
- (3) An unemployment rate above the county average;
- (4) A reduction in the number of jobs with an emphasis upon those jobs paying average or above-average salaries;
- (5) Failure to keep pace with the average growth rate in home values in the metropolitan area or county; and
- (6) A high vacancy rate among residential, commercial and industrial properties.

5. Each plan shall include an analysis of the condition of the housing stock in the various subregions of the county, a market analysis of the home-buying market with a focus on the impediments to attracting home buyers to those subregions and an analysis of the physical infrastructure needs that prevent economic growth.

6. The board may consider the following factors when determining the appropriate areas and strategies for investment:

- (1) Buildings that are unsafe or unhealthy for occupancy due to code violations, dilapidation, defective design, faulty utilities or any other negative conditions;
- (2) Factors that prevent or substantially hinder the economically viable use of buildings or lots, such as substandard design, inadequate size, lack of parking or any other conditions;
- (3) Incompatible uses that prevent economic development;
- (4) Subdivided lots of irregular form and shape and inadequate size for proper usefulness that have multiple ownership;
- (5) Depreciated or stagnant property values, including properties that contain hazardous wastes;
- (6) Abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities;
- (7) The existence of conditions that are not conducive to public safety; and
- (8) The lack of necessary commercial facilities normally found in neighborhoods.

7. Each plan shall outline specific strategies to address the problems facing the various subregions and neighborhoods within the county. The plan shall also discuss the partnerships that can be made with federal, state and local governments, as well as businesses, labor organizations, nonprofit groups, religious and other groups and citizens to help implement the plan. These strategies shall include estimated costs and time lines for completion.

8. The board shall produce an annual report focusing on the accomplishments of the trust relative to the goals set forth in the plan, the goals for the next year and the challenges facing the trust. The annual report shall be given to the chief elected officials of all the municipalities wholly within the county, the chief elected official of the county, the members of the governing board of the county and the public libraries within the county, and shall be posted on the county Internet web site.

9. Every year, the board shall commission an independent financial audit, the report of which shall be distributed in the same manner as the annual report pursuant to subsection 8 of this section.

10. Every five years, the board shall commission an independent management audit. The management audit shall include a comprehensive analysis of development trends, factors and practices along with specific recommendations to improve the trust's ability to achieve its mission. The management audit shall be reviewed by the advisory committee which may offer constructive advice on enhancing practices in order to achieve the goals of the program. The management audit shall be distributed in the same manner as the annual report pursuant to subsection 8 of this section. The board is authorized to take any necessary and proper steps to address the issues and recommendations contained within the management audit.

11. (1) The board shall establish an eleven-member advisory committee that shall meet four times each year and shall advise petitioners, staff and the board. The advisory committee members shall be appointed by the county executive. At least six of the advisory committee's members shall be nominated by the municipal league within the county and at least three shall be nominated by the members of the governing body of the county. No advisory committee member shall receive compensation for performance of duties as a committee member.

(2) At least one of the advisory committee members shall be a university professor well-versed in regional development issues. At least two of the advisory committee members shall be municipal officials from communities that have undertaken redevelopment programs as part of larger planning efforts. At least one of the advisory committee members shall be an attorney with experience in redevelopment activities. At least two of the advisory committee members shall be residents of priority comeback communities who have been active in advocating effective redevelopment policies. At least one of the advisory committee members shall be a private professional familiar with the factors influencing business location decisions. At least one of the advisory committee members shall be an individual familiar with education and training practices and workforce needs, with an understanding of how labor availability impacts business location decisions. At least one of the advisory committee members shall be a planner from the private sector knowledgeable in the area of strategic planning and the principles of multiyear rolling plans.

(3) The advisory committee shall promptly notify the county executive of the pending expiration of any member's term or any vacancy on the advisory committee. A member whose term has expired shall continue to serve until his or her successor is appointed and qualified.

(4) The board shall establish the advisory committee by resolution at the board's first meeting. The board shall, within ten days of the passage of the resolution establishing the advisory committee, send by United States mail written notice of the passage of the resolution to the county's municipal league and the members of the governing body of the county. The municipal league and the members of the governing board of the county shall, within forty-five days of the passage of the resolution establishing the advisory committee or within fourteen days of being notified of a vacancy by the county executive, submit its list of nominees to the county executive. The county executive shall appoint members within sixty days of the passage of the resolution or within thirty days of being notified by the committee of a vacancy on the advisory committee. If a list of nominees is not submitted by the time specified, the county executive shall appoint the members using the criteria set forth in this section before the sixtieth day from the passage of the resolution or before the thirtieth day from being notified of a vacancy on the existing advisory committee.

(5) At the advisory committee's first meeting, the members shall choose by lot the length of their terms. Two shall serve for one year, three for two years, three for three years and three for four years. All succeeding committee members shall serve for four years. Terms shall end on December thirty-first of the respective year.

(6) The committee members shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records pursuant to chapter 610, RSMo.]

[67.490. PETITIONS, CONTENTS, REVIEW, CRITERIA, APPROVAL BY BOARD AS PROPOSAL, PUBLIC HEARING — PROCEDURE IF FUNDS SOUGHT, ADDITIONAL REVIEW, FINDINGS BY BOARD REQUIRED WHEN — SELECT NEIGHBORHOOD ACTION PROGRAM, ELIGIBLE PROJECTS. — 1. The board shall in a timely manner adopt rules setting forth basic guidelines for acceptance and evaluation of petitions, including a common understandable format, as well as appropriate supporting material, maps, plans and data. The board shall begin to accept petitions one month after the adoption of the plan by the governing body of the county pursuant to section 67.487. The board shall review all petitions submitted by any petitioner. Review shall begin no later than thirty days after submission of the petition to the commission. In order to qualify as a proposal, a petition shall address the criteria set forth in subsection 4 of this section. For the purposes of this subsection, the term "pending" means any proposal submitted to the board which has not yet been approved by the board.

2. When practical, a petition shall be initially submitted to the advisory committee for constructive review and comment in a manner likely to result in a proposal that addresses a strategy outlined in the plan.

3. The board shall hold a public hearing concerning the petition, which may be on the same day as a scheduled meeting of the board.

4. (1) In reviewing any petition for funding, the board shall first determine if funds are sought for eligible expenses for a neighborhood reinvestment project. If the petition seeks such funds, the board shall certify such petition as a proposal subject to further review unless the board finds that the petition seeks funds for expenses that do not qualify as eligible expenses, or seeks funds for an endeavor other than a neighborhood reinvestment project. If the board finds that funds are sought for ineligible expenses or for an ineligible endeavor, the board need not take any further action and shall notify the petitioner in writing of all deficiencies that prevent the petition from being a proposal. If the board determines that there is a minor error or discrepancy in a petition, the board, with the petitioner's concurrence, may make such changes to the petition as are necessary to rectify the error that prevents the petition from being certified as a proposal subject to further review. Within six months of certification of a petition as a proposal, the board shall issue a finding approving or disapproving such proposal. In disapproving any proposal, the board shall issue a document indicating the reasons that the proposal was disapproved.

(2) If the board determines that a proposal is a priority comeback project consistent with the strategies and priorities set forth in the community comeback plan and that the project is well-planned, realistic, creative, resourceful, benefits the local community and is cost-effective, then the board shall award funding. If the board determines that a proposal is a priority comeback project, but is inconsistent with the strategies and priorities in the community comeback plan, the board may award funding if it finds that the project is well-planned, realistic, creative, resourceful, benefits the local community, is cost-effective and addresses the reinvestment needs of neighborhoods by one or more of the following:

- (a) Reducing or removing impediments to attracting home buyers;
- (b) Providing the necessary physical infrastructure needed to promote significant job growth;
- (c) Reducing or removing any such factor or factors that constitute an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use.

(3) If the board determines that a proposal, which is not a priority comeback project, is consistent with the strategies and priorities set forth in the community comeback plan and is well-planned, realistic, creative, resourceful, benefits the local community and is cost-effective, the board may award funding if the board adds such proposal to the plan. If the board determines that a proposal, which is not a priority comeback project, is inconsistent with the strategies and priorities in the community comeback plan, the board may award funding if it finds that the project is well-planned, realistic, creative, resourceful, benefits the local community, is

cost-effective and addresses the reinvestment needs of neighborhoods by one or more of the following:

- (a) Reducing or removing impediments to attracting home buyers;
- (b) Providing the necessary physical infrastructure needed to promote significant job growth;
- (c) Reducing or removing any such factor or factors that constitute an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use.

(4) The board, the advisory committee and the staff of both may advise petitioners on issues related to petitions or proposals. The board may meet informally, subject to the requirements of chapter 610, RSMo, with representatives of potential petitioners with regard to future petitions and plans.

5. The board shall establish a select neighborhood action program. SNAP applicants shall provide a ten-percent cash or in-kind match to be eligible for a SNAP grant. Project categories eligible for SNAP grant funding shall be:

(1) Neighborhood beautification projects which enhance the appearance of the overall neighborhood. Such projects include, but are not limited to, tree and flower plantings, cleanups, entranceway landscaping, community gardens, public art and neighborhood identification signs/banners;

(2) Neighborhood organization or capacity projects which create or increase membership in a neighborhood organization promoting community betterment. Such projects include, but are not limited to, neighborhood newsletters, neighborhood marketing brochures, neighborhood meetings and special events, and technology such as web site development;

(3) Neighborhood-school partnership projects which benefit a school and the adjacent neighborhood. Involvement of both the school and the neighborhood in planning, implementation and maintenance must be substantiated. Partnership projects include, but are not limited to, youth and community programs that promote safety, culture or the environment and that are beneficial to both the school and the neighborhood;

(4) Capital purchase projects which include the acquisition of equipment or property. Such projects include, but are not limited to, land acquisition, playground equipment, bicycle racks and major supplies;

(5) Neighborhood improvement projects which benefit the local infrastructure in a neighborhood, and include construction of sidewalks or installation of streetlights.

6. Project categories ineligible for SNAP grant funding shall be:

- (1) Projects accomplished in more than twelve months;
- (2) Projects that duplicate existing private or public programs;
- (3) Projects that require ongoing services, or requests to support continual operating budgets; and

(4) Projects that conflict with the community comeback plan.

7. When making SNAP grant funding decisions, the board shall consider the level of neighborhood participation including the percentage of residents who are involved in planning and implementing the idea, the diversity of parties involved or that will benefit, and the amount of neighborhood opposition; the community benefit of the project, including the number of people who will benefit from the project and the overall quality of the project.]

[67.493. FUNDS, MINIMUM TO BE USED FOR SNAP GRANT PROGRAM AND PRIORITY COMEBACK PROJECTS, OTHER USES. — Of the funds available to the trust, a minimum of five percent of the funds, not to exceed an unallocated balance of five hundred thousand dollars rolled over from the previous fiscal year, shall be set aside annually for the SNAP grant program. Of the remaining funds seventy-five percent calculated on a rolling three-year average shall be set aside for priority comeback projects. The balance of the funds shall be used to indirectly or

directly benefit priority comeback communities or residents of those areas by utilizing such funds to:

- (1) Promote job preparation and job creation in areas easily accessed by residents of priority comeback communities;
- (2) Improve neighborhoods adjacent to priority comeback communities that are unlikely to be improved without such funding; and
- (3) Abate through low-interest home improvement loan programs or similar mechanisms the functional or marketable obsolescence of any owner-occupied residential structure over twenty-five years old which is located within a census block group below one hundred ten percent of the median income level for the metropolitan statistical area for this state; provided that, there is a significant threat of economic decline within the area without intervention by the trust.]

Approved July 2, 2004

HB 841 [SCS HB 841]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits use of glass containers on certain vessels on state waterways.

AN ACT to amend chapter 306, RSMo, by adding thereto two new sections relating to containers on watercraft, with a penalty provision.

SECTION

- A. Enacting clause.
- 306.114. Grant of suspended imposition of sentence, requirements — validity of chemical tests — restrictions upon withdrawal of blood, procedure, no civil liability.
- 306.325. Vessels on navigable waterways, restrictions on transporting of foodstuffs and beverages — violation, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 306, RSMo, is amended by adding thereto two new sections, to be known as sections 306.114 and 306.325, to read as follows:

306.114. GRANT OF SUSPENDED IMPOSITION OF SENTENCE, REQUIREMENTS — VALIDITY OF CHEMICAL TESTS — RESTRICTIONS UPON WITHDRAWAL OF BLOOD, PROCEDURE, NO CIVIL LIABILITY. — 1. No person convicted of or pleading guilty to a violation of section 306.111 or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on probation for a minimum of two years and a record of the conviction or plea of guilty is entered into the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol.

2. Chemical tests of a person's blood, breath, or saliva to be considered valid under the provisions of sections 306.111 to 306.119 shall be performed according to methods and devices approved by the department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the department of health and senior services for this purpose. **In addition, any state, county, or municipal law enforcement officer who is certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a portable chemical test to any person suspected of operating any vessel in violation of section 306.111**

or 306.112. A portable chemical test shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this section.

3. The department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to conduct tests required by sections 306.111 to 306.119, and shall establish standards as to the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination, suspension or revocation by the department of health and senior services.

4. A licensed physician, registered nurse, or trained medical technician, acting at the request and direction of a law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless the medical personnel, in the exercise of good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test or a saliva specimen. In withdrawing blood for the purpose of determining the alcohol content in the blood, only a previously unused and sterile needle and sterile vessel shall be used and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to a venapuncture. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him.

5. No person who administers any test pursuant to the provisions of sections 306.111 to 306.119 upon the request of a law enforcement officer, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or with which such person is employed or is in any way associated, shall be civilly liable for damages to the person tested, except for negligence in administering of the test or for willful and wanton acts or omissions.

6. Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusing to take a test as provided in sections 306.111 to 306.119 shall be deemed not to have withdrawn the consent provided by section 306.116 and the test or tests may be administered.

306.325. VESSELS ON NAVIGABLE WATERWAYS, RESTRICTIONS ON TRANSPORTING OF FOODSTUFFS AND BEVERAGES — VIOLATION, PENALTY. — 1. As used in this section, the following terms mean:

(1) "Navigable waterway", any navigable river, lake, or other body of water located wholly or partly within this state and used by any vessel;

(2) "Vessel", any canoe, kayak, or other watercraft which is easily susceptible to swamping, tipping, or rolling, but does not include any houseboat, party barge, runabout, ski boat, bass boat, excursion gambling boat as defined in section 313.800, RSMo, or similar watercraft not easily susceptible to swamping, tipping, or rolling.

2. Any person entering, traveling upon, or otherwise using navigable or non-navigable waterways by vessel or innertube and transporting foodstuffs or beverages shall:

(1) Use a cooler, icebox, or similar nonglass container, and shall not use, other than containers for substances prescribed by a licensed physician, any glass container for beverages on a vessel within the banks of navigable waterways;

(2) Use a cooler, icebox, or similar nonglass container sealed in a way which prevents the contents from spilling into the water;

(3) Carry and affix to the vessel a container or bag suitable for containing refuse, waste, and trash materials and which is capable of being securely closed;

(4) Transport all refuse, waste, and trash materials to a place in which such materials may be safely and lawfully disposed; and

(5) Shall safely secure any glass containers to protect them from breakage or discharge into any stream.

3. Any person who violates the provisions of this section is guilty of a class C misdemeanor.

Approved June 30, 2004

HB 855 [SS SCS HCS HB 855]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires health insurers to treat mental health in the same manner as other medical services.

AN ACT to repeal sections 376.779, 376.810, 376.811, 376.826, 376.836, and 376.840, RSMo, and to enact in lieu thereof six new sections relating to insurance coverage for mental health.

SECTION

- A. Enacting clause.
- 376.779. Health insurance policies to offer coverage for treatment of alcoholism — exclusions.
- 376.810. Definitions for policy requirements for chemical dependency.
- 376.811. Coverage required for chemical dependency by all insurance and health service corporations — minimum standards — offer of coverage may be accepted or rejected by policyholders, companies may offer as standard coverage — mental health benefits provided, when — exclusions.
- 376.826. Definitions.
- 376.836. Effective date — study conducted by director, contents, report to general assembly — exclusions — expiration date.
- 376.1550. Mental health coverage, requirements — definitions — exclusions.
- 376.840. Mental illness coverage for all state employee health plans.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 376.779, 376.810, 376.811, 376.826, 376.836, and 376.840, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 376.779, 376.810, 376.811, 376.826, 376.836, and 376.1550, to read as follows:

376.779. HEALTH INSURANCE POLICIES TO OFFER COVERAGE FOR TREATMENT OF ALCOHOLISM — EXCLUSIONS. — 1. All [group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not-for-profit health service corporation, all self-insured group health benefit plans, of any type or description, and all such] health plans or policies that are individually underwritten or provide for such coverage for specific individuals and the members of their families [as nongroup policies], which provide for hospital treatment, shall provide coverage, while confined in a hospital or in a residential or nonresidential facility certified by the department of mental health, for treatment of alcoholism on the same basis as coverage for any other illness, except that coverage may be limited to thirty days in any policy or contract benefit period. All [Missouri group contracts issued or renewed, and all] Missouri individual contracts issued on or after [December 31, 1980] **January 1, 2005**, shall be subject to this section. Coverage required by this section shall be included in the policy or contract and payment provided as for other coverage in the same policy

or contract notwithstanding any construction or relationship of interdependent contracts or plans affecting coverage and payment of reimbursement prerequisites under the policy or contract.

2. Insurers, corporations or groups providing coverage may approve for payment or reimbursement vendors and programs providing services or treatment required by this section. Any vendor or person offering services or treatment subject to the provisions of this section and seeking approval for payment or reimbursement shall submit to the department of mental health a detailed description of the services or treatment program to be offered. The department of mental health shall make copies of such descriptions available to insurers, corporations or groups providing coverage under the provisions of this section. Each insurer, corporation or group providing coverage shall notify the vendor or person offering service or treatment as to its acceptance or rejection for payment or reimbursement; provided, however, payment or reimbursement shall be made for any service or treatment program certified by the department of mental health. Any notice of rejection shall contain a detailed statement of the reasons for rejection and the steps and procedures necessary for acceptance. Amended descriptions of services or treatment programs to be offered may be filed with the department of mental health. Any vendor or person rejected for approval of payment or reimbursement may modify their description and treatment program and submit copies of the amended description to the department of mental health and to the insurer, corporation or group which rejected the original description.

3. The department of mental health may issue rules necessary to carry out the provisions of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. All substance abuse treatment programs in Missouri receiving funding from the Missouri department of mental health must be certified by the department.

5. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

376.810. DEFINITIONS FOR POLICY REQUIREMENTS FOR CHEMICAL DEPENDENCY. —
As used in sections 376.810 to 376.814, the following terms mean:

(1) "Chemical dependency", the psychological or physiological dependence upon and abuse of drugs, including alcohol, characterized by drug tolerance or withdrawal and impairment of social or occupational role functioning or both;

(2) "Community mental health center", a legal entity certified by the department of mental health or accredited by a nationally recognized organization, through which a comprehensive array of mental health services are provided to individuals;

(3) "Day program services", a structured, intensive day or evening treatment or partial hospitalization program, certified by the department of mental health or accredited by a nationally recognized organization;

(4) "Episode", a distinct course of chemical dependency treatment separated by at least thirty days without treatment;

(5) "Health insurance policy", all [group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not for profit health services corporation, all self-insured group health benefit plans of any type or description to the extent that regulation of such plans is not preempted by federal law, and all such] health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families [as nongroup policies], which provide for hospital treatment. For the purposes of subsection 2 of section 376.811, "health insurance

policy" shall also include any [group or individual contract] **individually underwritten coverage** issued by a health maintenance organization. The provisions of sections 376.810 to 376.814 shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency;

(6) "Licensed professional", a licensed physician specializing in the treatment of mental illness, a licensed psychologist, a licensed clinical social worker or a licensed professional counselor. Only prescription rights under this act shall apply to medical [physician's] **physicians** and doctors of osteopathy;

(7) "Managed care", the determination of availability of coverage under a health insurance policy through the use of clinical standards to determine the medical necessity of an admission or treatment, and the level and type of treatment, and appropriate setting for treatment, with required authorization on a prospective, concurrent or retrospective basis, sometimes involving case management;

(8) "Medical detoxification", hospital inpatient or residential medical care to ameliorate acute medical conditions associated with chemical dependency;

(9) "Nonresidential treatment program", program certified by the department of mental health involving structured, intensive treatment in a nonresidential setting;

(10) "Recognized mental illness", those conditions classified as "mental disorders" in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, but shall not include mental retardation;

(11) "Residential treatment program", program certified by the department of mental health involving residential care and structured, intensive treatment;

(12) "Social setting detoxification", a program in a supportive nonhospital setting designed to achieve detoxification, without the use of drugs or other medical intervention, to establish a plan of treatment and provide for medical referral when necessary.

376.811. COVERAGE REQUIRED FOR CHEMICAL DEPENDENCY BY ALL INSURANCE AND HEALTH SERVICE CORPORATIONS — MINIMUM STANDARDS — OFFER OF COVERAGE MAY BE ACCEPTED OR REJECTED BY POLICYHOLDERS, COMPANIES MAY OFFER AS STANDARD COVERAGE — MENTAL HEALTH BENEFITS PROVIDED, WHEN — EXCLUSIONS. — 1. Every insurance company and health services corporation doing business in this state shall offer in all health insurance policies, benefits or coverage for chemical dependency meeting the following minimum standards:

(1) Coverage for outpatient treatment through a nonresidential treatment program, or through partial- or full-day program services, of not less than twenty-six days per policy benefit period;

(2) Coverage for residential treatment program of not less than twenty-one days per policy benefit period;

(3) Coverage for medical or social setting detoxification of not less than six days per policy benefit period;

(4) The coverages set forth in this subsection may be subject to a separate lifetime frequency cap of not less than ten episodes of treatment, except that such separate lifetime frequency cap shall not apply to medical detoxification in a life-threatening situation as determined by the treating physician and subsequently documented within forty-eight hours of treatment to the reasonable satisfaction of the insurance company or health services corporation; and

(5) The coverages set forth in this subsection [shall be]:

(a) **Shall be** subject to the same coinsurance, co-payment and deductible factors as apply to physical illness;

(b) **May be** administered pursuant to a managed care program established by the insurance company or health services corporation; and

(c) **May deliver** covered services [may be delivered] through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

2. In addition to the coverages set forth in subsection 1 of this section, every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies, benefits or coverages for recognized mental illness, excluding chemical dependency, meeting the following minimum standards:

(1) Coverage for outpatient treatment, including treatment through partial- or full-day program services, for mental health services for a recognized mental illness rendered by a licensed professional to the same extent as any other illness;

(2) Coverage for residential treatment programs for the therapeutic care and treatment of a recognized mental illness when prescribed by a licensed professional and rendered in a psychiatric residential treatment center licensed by the department of mental health or accredited by the Joint Commission on Accreditation of Hospitals to the same extent as any other illness;

(3) Coverage for inpatient hospital treatment for a recognized mental illness to the same extent as for any other illness, not to exceed ninety days per year;

(4) The coverages set forth in this subsection shall be subject to the same coinsurance, co-payment, deductible, annual maximum and lifetime maximum factors as apply to physical illness; and

(5) The coverages set forth in this subsection may be administered pursuant to a managed care program established by the insurance company, health services corporation or health maintenance organization, and covered services may be delivered through a system of contractual arrangements with one or more providers, community mental health centers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri.

3. The offer required by sections 376.810 to 376.814 may be accepted or rejected by the group or individual policyholder or contract holder and, if accepted, shall fully and completely satisfy and substitute for the coverage under section 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an insurance company, health services corporation or health maintenance organization from including all or part of the coverages set forth in sections 376.810 to 376.814 as standard coverage in their policies or contracts issued in this state.

4. Every insurance company, health services corporation and health maintenance organization doing business in this state shall offer in all health insurance policies mental health benefits or coverage as part of the policy or as a supplement to the policy. Such mental health benefits or coverage shall include at least two sessions per year to a licensed psychiatrist, licensed psychologist, licensed professional counselor, or licensed clinical social worker acting within the scope of such license and under the following minimum standards:

(1) Coverage and benefits in this subsection shall be for the purpose of diagnosis or assessment, but not dependent upon findings; and

(2) Coverage and benefits in this subsection shall not be subject to any conditions of preapproval, and shall be deemed reimbursable as long as the provisions of this subsection are satisfied; and

(3) Coverage and benefits in this subsection shall be subject to the same coinsurance, co-payment and deductible factors as apply to regular office visits under coverages and benefits for physical illness.

5. If the group or individual policyholder or contract holder rejects the offer required by this section, then the coverage shall be governed by the mental health and chemical dependency insurance act as provided in sections 376.825 to [376.835] **376.836**.

6. This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed

daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

376.826. DEFINITIONS. — For the purposes of sections 376.825 to [376.840] **376.836** the following terms shall mean:

- (1) "Director", the director of the department of insurance;
- (2) "Health insurance policy" or "policy", all [group health insurance policies providing coverage on an expense-incurred basis, all group service or indemnity contracts issued by a not for profit health services corporation, all self-insured group health benefit plans of any type or description to the extent that regulation of such plans is not preempted by federal law, and all such] health insurance policies or contracts that are individually underwritten or provide such coverage for specific individuals and members of their families [as nongroup policies], which provide for hospital treatments. The term shall also include any [group or individual contract] **individually underwritten coverage** issued by a health maintenance organization. The provisions of sections 376.825 to [376.840] **376.836** shall not apply to policies which provide coverage for a specified disease only, other than for mental illness or chemical dependency;
- (3) "Insurer", an entity licensed by the department of insurance to offer a health insurance policy;
- (4) "Mental illness", the following disorders contained in the International Classification of Diseases (ICD-9-CM):
 - (a) Schizophrenic disorders and paranoid states (295 and 297, except 297.3);
 - (b) Major depression, bipolar disorder, and other affective psychoses (296);
 - (c) Obsessive compulsive disorder, post-traumatic stress disorder and other major anxiety disorders (300.0, 300.21, 300.22, 300.23, 300.3 and 309.81);
 - (d) Early childhood psychoses, and other disorders first diagnosed in childhood or adolescence (299.8, 312.8, 313.81 and 314);
 - (e) Alcohol and drug abuse (291, 292, 303, 304, and 305, except 305.1); and
 - (f) Anorexia nervosa, bulimia and other severe eating disorders (307.1, 307.51, 307.52 and 307.53);
 - (g) Senile organic psychotic conditions (290);
- (5) "Rate", "term", or "condition", any lifetime limits, annual payment limits, episodic limits, inpatient or outpatient service limits, and out-of-pocket limits. This definition does not include deductibles, co-payments, or coinsurance prior to reaching any maximum out-of-pocket limit. Any out-of-pocket limit under a policy shall be comprehensive for coverage of mental illness and physical conditions.

376.836. EFFECTIVE DATE — STUDY CONDUCTED BY DIRECTOR, CONTENTS, REPORT TO GENERAL ASSEMBLY — EXCLUSIONS — EXPIRATION DATE. — 1. The provisions of sections 376.825 to [376.840] **376.836** apply to applications for coverage made on or after January 1, [2000] **2005**, and to health insurance policies issued or renewed on or after such date to residents of this state. Multiyear group policies need not comply until the expiration of their current multiyear term unless the policyholder elects to comply before that time.

2. [The director shall perform a study to assess the impact of the mental health and substance abuse insurance act on insurers, business interests, providers, and consumers of mental health and substance abuse treatment services. The director shall report the findings of this study to the general assembly by January 1, 2004.] **This section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policy**

of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

3. The provisions of sections 376.825 to 376.836 shall expire on January 1, 2011.

376.1550. MENTAL HEALTH COVERAGE, REQUIREMENTS — DEFINITIONS — EXCLUSIONS. — 1. Notwithstanding any other provision of law to the contrary, each health carrier that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2005, shall provide coverage for a mental health condition, as defined in this section, and shall comply with the following provisions:

(1) A health benefit plan shall provide coverage for treatment of a mental health condition and shall not establish any rate, term, or condition that places a greater financial burden on an insured for access to treatment for a mental health condition than for access to treatment for a physical health condition. Any deductible or out-of-pocket limits required by a health carrier or health benefit plan shall be comprehensive for coverage of all health conditions, whether mental or physical;

(2) The coverages set forth in this subsection:

(a) May be administered pursuant to a managed care program established by the health carrier; and

(b) May deliver covered services through a system of contractual arrangements with one or more providers, hospitals, nonresidential or residential treatment programs, or other mental health service delivery entities certified by the department of mental health, or accredited by a nationally recognized organization, or licensed by the state of Missouri;

(3) A health benefit plan that does not otherwise provide for management of care under the plan or that does not provide for the same degree of management of care for all health conditions may provide coverage for treatment of mental health conditions through a managed care organization; provided that the managed care organization is in compliance with rules adopted by the department of insurance that assure that the system for delivery of treatment for mental health conditions does not diminish or negate the purpose of this section. The rules adopted by the director shall assure that:

(a) Timely and appropriate access to care is available;

(b) The quantity, location, and specialty distribution of health care providers is adequate; and

(c) Administrative or clinical protocols do not serve to reduce access to medically necessary treatment for any insured.

(4) Coverage for treatment for chemical dependency shall comply with sections 376.779, 376.810 to 376.814, and 376.825 to 376.836 and for the purposes of this subdivision the term "health insurance policy" as used in sections 376.779, 376.810 to 376.814, and 376.825 to 376.836, the term "health insurance policy" shall include group coverage.

2. As used in this section, the following terms mean:

(1) "Chemical dependency", the psychological or physiological dependence upon and abuse of drugs, including alcohol, characterized by drug tolerance or withdrawal and impairment of social or occupational role functioning or both;

(2) "Health benefit plan", the same meaning as such term is defined in section 376.1350;

(3) "Health carrier", the same meaning as such term is defined in section 376.1350;

(4) "Mental health condition", any condition or disorder defined by categories listed in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders except for chemical dependency;

(5) "Managed care organization", any financing mechanism or system that manages care delivery for its members or subscribers, including health maintenance organizations and any other similar health care delivery system or organization;

(6) "Rate, term, or condition", any lifetime or annual payment limits, deductibles, copayments, coinsurance, and other cost-sharing requirements, out-of-pocket limits, visit limits, and any other financial component of a health benefit plan that affects the insured.

3. This section shall not apply to a health plan or policy that is individually underwritten or provides such coverage for specific individuals and members of their families pursuant to section 376.779, sections 376.810 to 376.814, and sections 376.825 to 376.836, a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, hospitalization-surgical care policy, short-term major medical policies of six months or less duration, or any other supplemental policy as determined by the director of the department of insurance.

4. Notwithstanding any other provision of law to the contrary, all health insurance policies that cover state employees, including the Missouri consolidated health care plan, shall include coverage for mental illness. Multiyear group policies need not comply until the expiration of their current multiyear term unless the policyholder elects to comply before that time.

5. The provisions of this section shall not be violated if the insurer decides to apply different limits or exclude entirely from coverage the following:

(1) Marital, family, educational, or training services unless medically necessary and clinically appropriate;

(2) Services rendered or billed by a school or halfway house;

(3) Care that is custodial in nature;

(4) Services and supplies that are not immediately nor clinically appropriate; or

(5) Treatments that are considered experimental.

6. The director shall grant a policyholder a waiver from the provisions of this section if the policyholder demonstrates to the director by actual experience over any consecutive twenty-four-month period that compliance with this section has increased the cost of the health insurance policy by an amount that results in a two percent increase in premium costs to the policyholder. The director shall promulgate rules establishing a procedure and appropriate standards for making such a demonstration. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

[376.840. MENTAL ILLNESS COVERAGE FOR ALL STATE EMPLOYEE HEALTH PLANS. — Notwithstanding the provision of subsection 1 of section 376.827, all health insurance policies which cover state employees including the Missouri consolidated health care plan shall include coverage for mental illness. Multiyear group policies need not comply until the expiration of their current multiyear term unless the policyholder elects to comply before that time.]

Approved June 28, 2004

HB 869 [HB 869]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions regarding the licensure of veterinarians.

AN ACT to repeal sections 340.200, 340.246, 340.262, 340.306, 340.312, and 340.320, RSMo, and to enact in lieu thereof eight new sections relating to veterinarians.

SECTION

- A. Enacting clause.
- 340.200. Definitions.
- 340.217. Practice of veterinary medicine across state lines defined — license not required, when.
- 340.246. Provisional licensure, requirements — term.
- 340.255. Inactive license status, procedure.
- 340.262. Renewal of expired license, requirements — waiver of fees, when.
- 340.306. Waiver of examination, when — grade score transfer permitted, when.
- 340.312. Technician certification, inactive status, when — notification of termination of employment — continuing education required, when.
- 340.320. Practice as technician after revocation, penalty — application for renewal.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 340.200, 340.246, 340.262, 340.306, 340.312, and 340.320, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 340.200, 340.217, 340.246, 340.255, 340.262, 340.306, 340.312, and 340.320, to read as follows:

340.200. DEFINITIONS. — When used in sections 340.200 to 340.330, the following terms mean:

- (1) "Accredited school of veterinary medicine", any veterinary college or division of a university or college that offers the degree of doctor of veterinary medicine or its equivalent and is accredited by the American Veterinary Medical Association (AVMA);
 - (2) "Animal", any wild, exotic or domestic, living or dead animal or mammal other than man, including birds, fish and reptiles;
 - (3) "Applicant", an individual who files an application to be licensed to practice veterinary medicine or to be registered as a veterinary technician;
 - (4) "Appointed member of the board", regularly appointed members of the Missouri veterinary medical board, not including the state veterinarian who serves on the board ex officio;
 - (5) "Board", the Missouri veterinary medical board;
 - (6) "Consulting veterinarian", a veterinarian licensed in another state, country or territory who gives advice or demonstrates techniques to a licensed Missouri veterinarian or group of licensed Missouri veterinarians;
 - (7) "ECFVG certificate", a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates or its successor. The certificate must indicate that the holder of the certificate has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited school of veterinary medicine;
 - (8) "Emergency", when an animal has been placed in a life-threatening condition and immediate treatment is necessary to sustain life or where death is imminent and action is necessary to relieve pain or suffering;
 - (9) "Faculty member", full professors, assistant professors, associate professors, clinical instructors and residents but does not include interns or adjunct appointments;
 - (10) "Foreign veterinary graduate", any person, including foreign nationals and American citizens, who has received a professional veterinary medical degree from an AVMA listed
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veterinary college located outside the boundaries of the United States, its territories or Canada, that is not accredited by the AVMA;

(11) "License", any permit, approval, registration or certificate issued or renewed by the board;

(12) "Licensed veterinarian", an individual who is validly and currently licensed to practice veterinary medicine in Missouri as determined by the board in accordance with the requirements and provisions of sections 340.200 to 340.330;

(13) "Minimum standards", standards as set by board rule and which establish the minimum requirements for the practice of veterinary medicine in the state of Missouri as are consistent with the intent and purpose of sections 340.200 to 340.330;

(14) "Person", any individual, firm, partnership, association, joint venture, cooperative or corporation or any other group or combination acting in concert; whether or not acting as principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative or as the successor in interest, assigning agent, factor, servant, employee, director, officer or any other representative of such person;

(15) "Practice of veterinary medicine", to represent directly, indirectly, publicly or privately an ability and willingness to do any act described in subdivision [(24)] (28) of this section;

(16) "Provisional license", a license issued to a person while that person is engaged in a veterinary candidacy program;

(17) "Registered veterinary technician", a person who is formally trained for the specific purpose of assisting a licensed veterinarian with technical services under the appropriate level of supervision as is consistent with the particular delegated animal health care task;

(18) "Supervision":

(a) "Immediate supervision", the licensed veterinarian is in the immediate area and within audible and visual range of the animal patient and the person treating the patient;

(b) "Direct supervision", the licensed veterinarian is on the premises where the animal is being treated and is quickly and easily available and the animal has been examined by a licensed veterinarian at such times as acceptable veterinary medical practice requires consistent with the particular delegated animal health care task;

(c) "Indirect supervision", the licensed veterinarian need not be on the premises but has given either written or oral instructions for the treatment of the animal patient or treatment protocol has been established and the animal has been examined by a licensed veterinarian at such times as acceptable veterinary medical practice requires consistent with the particular delegated health care task; provided that the patient is not in a surgical plane of anesthesia and the licensed veterinarian is available for consultation on at least a daily basis;

(19) "Supervisor", a licensed veterinarian employing or utilizing the services of a registered veterinary technician, veterinary intern, temporary provisional licensee, veterinary medical student, unregistered assistant or any other individual working under that veterinarian's supervision;

(20) "Temporary license", any temporary permission to practice veterinary medicine issued by the board pursuant to section 340.248;

(21) "Unregistered assistant", any individual who is not a registered veterinary technician or licensed veterinarian and is employed by a licensed veterinarian;

(22) "Veterinarian", "doctor of veterinary medicine", "DVM", "VMD", or equivalent title, a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine or holds a ECFVG certificate issued by the AVMA;

(23) "Veterinarian-client-patient relationship", the veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal and the need for medical treatment, and the client, owner or owner's agent has agreed to follow the instructions of the veterinarian. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. Veterinarian-client-patient relationship means that the veterinarian has recently seen and is

personally acquainted with the keeping and care of the animal by virtue of an examination or by medically appropriate and timely visits to the premises where the animal is kept. The practicing veterinarian is readily available for follow-up care in case of adverse reactions or failure of the prescribed course of therapy;

(24) "Veterinary candidacy program", a program by which a person who has received a doctor of veterinary medicine or equivalent degree from an accredited school of veterinary medicine can obtain the practical experience required for licensing in Missouri pursuant to sections 340.200 to 340.330;

(25) "Veterinary facility", any place or unit from which the practice of veterinary medicine is conducted, including but not limited to the following:

(a) "Veterinary or animal hospital or clinic", a facility that meets or exceeds all physical requirements and minimum standards as established by board rule for veterinary facilities; provides quality examination, diagnostic and health maintenance services for medical and surgical treatment of animals and is equipped to provide housing and nursing care for animals during illness or convalescence;

(b) "Specialty practice or clinic", a facility that provides complete specialty service by a licensed veterinarian who has advanced training in a specialty and is a diplomate of an approved specialty board. A specialty practice or clinic shall meet all minimum standards which are applicable to a specialty as established by board rule;

(c) "Central hospital", a facility that meets all requirements of a veterinary or animal hospital or clinic as defined in paragraph (a) of this subdivision and other requirements as established by board rule, and which provides specialized care, including but not limited to twenty-four-hour nursing care and specialty consultation on permanent or on-call basis. A central hospital shall be utilized primarily on referral from area veterinary hospitals or clinics;

(d) "Satellite, outpatient or mobile small animal clinic", a supportive facility owned by or associated with and has ready access to a full-service veterinary hospital or clinic or a central hospital providing all mandatory services and meeting all physical requirements and minimum standards as established by sections 340.200 to 340.330 or by board rule;

(e) "Large animal mobile clinic", a facility that provides examination, diagnostic and preventive medicine and minor surgical services for large animals not requiring confinement or hospitalization;

(f) "Emergency clinic", a facility established to receive patients and to treat illnesses and injuries of an emergency nature;

(26) "Veterinary candidate", a person who has received a doctor of veterinary medicine or equivalent degree from an accredited school or college of veterinary medicine and who is working under the supervision of a board-approved licensed veterinarian;

(27) "Veterinary intern", a person who has received a doctor of veterinary medicine or equivalent degree from an accredited school or college of veterinary medicine and who is participating in additional clinical training in veterinary medicine to prepare for AVMA-recognized certification or specialization;

(28) "Veterinary medicine", the science of diagnosing, treating, changing, alleviating, rectifying, curing or preventing any animal disease, deformity, defect, injury or other physical or mental condition, including, but not limited to, the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal, including, but not limited to, acupuncture, dentistry, animal psychology, animal chiropractic, theriogenology, surgery, both general and cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the procedures in this paragraph;

(29) "Veterinary student preceptee", a person who is pursuing a veterinary degree in an accredited school of veterinary medicine which has a preceptor program and who has completed the academic requirements of such program.

340.217. PRACTICE OF VETERINARY MEDICINE ACROSS STATE LINES DEFINED — LICENSE NOT REQUIRED, WHEN. — 1. No person registered as a veterinarian in Missouri shall engage in the practice of veterinary medicine, as authorized in this chapter, across state lines, except as herein provided.

2. For purposes of this chapter, the "practice of veterinary medicine across state lines" means:

(1) The rendering of a written or otherwise documented veterinary medical opinion concerning the diagnosis or treatment of a patient within this state by a veterinarian located outside this state as a result of transmission of individual patient data by electronic, telephonic, or other means from within this state or any other state to such veterinarian or veterinarian's agent; or

(2) The rendering of treatment to a patient within this state by a veterinarian located outside this state as a result of transmission of individual patient data by electronic, telephonic, or other means from within this state or any other state to such veterinarian or veterinarian's agent.

3. A veterinarian located outside this state shall not be required to obtain a license when:

(1) In consultation with a veterinarian licensed to practice veterinary medicine in this state; and

(2) The veterinarian licensed in this state retains the ultimate authority and responsibility for the diagnosis and/or treatment in the care of the patient located within this state; or

(3) Evaluating a patient or rendering an oral, written, or otherwise documented veterinary medical opinion when providing testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding in this state or other forum in this state.

340.246. PROVISIONAL LICENSURE, REQUIREMENTS — TERM. — A provisional license may be issued to a qualified applicant for licensure pending examination results and completion of the veterinary candidacy program, **or who has otherwise applied for licensure by grade transfer, reciprocity, or examination**, if the applicant meets all other required qualifications for licensure in sections 340.200 to 340.330; provided that the applicant is working under the supervision of a licensed veterinarian in good standing. Such supervision shall be consistent with the delegated animal health care task. A provisional license shall expire one year after the date of issuance. **A provisional license shall not be issued to individuals applying for faculty licensure.**

340.255. INACTIVE LICENSE STATUS, PROCEDURE. — Any veterinarian licensed under sections 340.200 to 340.330 who is not practicing or involved in any aspect, administrative or otherwise, of veterinary medicine in Missouri, as defined in section 340.200, may request that his or her license be placed on an inactive status. Any veterinarian requesting his or her license to be placed on an inactive status shall file an affirmation with the board stating that he or she will not engage in the practice or be involved in any aspect, administrative or otherwise, of veterinary medicine in Missouri. To renew such inactive license, the person shall submit an application for licensure renewal, pay the renewal fee, and submit approved continuing education hours as required by rule of the board.

340.262. RENEWAL OF EXPIRED LICENSE, REQUIREMENTS — WAIVER OF FEES, WHEN. — If a person is otherwise eligible to renew his or her license, the person may renew an expired license within two years of the date of expiration. To renew such expired license, the person shall submit an application for renewal, pay the renewal fee, pay a delinquent renewal fee [and], pay a penalty fee [as established by the board], **and submit approved continuing education hours as required by rule of the board.** Upon a finding of extenuating circumstances, the

board may waive the payment of the penalty fee; however, nothing in this section shall be construed as requiring such waiver. If more than two years have lapsed since the date the license expired, the license may not be renewed. The holder of such expired license must apply under the procedures for a new license pursuant to sections 340.200 to 340.330.

340.306. WAIVER OF EXAMINATION, WHEN — GRADE SCORE TRANSFER PERMITTED, WHEN. — 1. The board may issue a certificate of registration to an applicant, without examination, if the applicant submits proof, satisfactory to the board, that the applicant:

(1) Is currently registered in another state, territory, district or province of the United States or Canada having standards for admission substantially the same as the standards in Missouri, and that the standards were in effect at the time the applicant was first admitted to practice in the other state, territory, district or province of the United States or Canada; and

(2) Has been employed and supervised by a licensed veterinarian for a period of at least five consecutive years preceding the applicant's application to practice as a veterinary technician in Missouri.

2. If the applicant has not been licensed in another state, territory, district, or province of the United States or Canada for five consecutive years, the board may determine that the applicant is eligible for licensure by grade score transfer. For a previous examination score to be transferred for a current licensing period, the score must be received within the five-year period immediately preceding the application. If such passing score is not received within three attempts, the board may require the applicant to appear before the board and/or submit evidence that the applicant has completed continuing education.

340.312. TECHNICIAN CERTIFICATION, INACTIVE STATUS, WHEN — NOTIFICATION OF TERMINATION OF EMPLOYMENT — CONTINUING EDUCATION REQUIRED, WHEN. — 1. If the technician leaves the employment or supervision of the licensed veterinarian and is not employed by or supervised by another licensed veterinarian within thirty days of the termination of his or her employment, the technician's certificate shall be placed on inactive status. It is the responsibility of the technician to inform the executive director within thirty days of termination of his or her employment. It is grounds for revocation of the technician's certificate if he or she fails to notify the executive director of such termination.

2. Any veterinary technician in the state of Missouri whose certificate has been on inactive status [for at least five continuous years] will be required to [take] **complete the required** continuing education [as required by the board] **credits in accordance with rules of the board**, pay all fees and meet all other requirements of sections 340.200 to 340.330 and board rules for registration as a veterinary technician.

340.320. PRACTICE AS TECHNICIAN AFTER REVOCATION, PENALTY — APPLICATION FOR RENEWAL. — 1. Any person who practices as a veterinary technician after his or her certificate has been revoked pursuant to section 340.318 is in violation of sections 340.200 to 340.330 and subject to criminal prosecution as provided for under sections 340.200 to 340.330. Such criminal penalty shall be in addition to and not in lieu of any penalty or other discipline provided for under sections 340.200 to 340.330.

2. If a person is otherwise eligible to renew his or her certificate, such person may renew an expired certificate within [one year] **two years** of the date of expiration by submitting an application for renewal, payment of the renewal fee, payment of delinquent renewal fees and payment of a penalty fee as established by the board. A certificate may not be renewed if [one year has] **two years have** lapsed since the date the certificate expired. Such holder of an expired certificate must make application for a new certificate.

HB 895 [HCS HB 895]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates dissolution procedures for road districts in Jasper County.

AN ACT to repeal section 233.295, RSMo, and to enact in lieu thereof one new section relating to dissolution of certain road districts, with an emergency clause.

SECTION

- A. Enacting clause.
- 233.295. Dissolution of road district — petition — notice — disincorporation of district, petition, election, ballot form, certain counties, Christian, Jasper.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 233.295, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 233.295, to read as follows:

233.295. DISSOLUTION OF ROAD DISTRICT — PETITION — NOTICE — DISINCORPORATION OF DISTRICT, PETITION, ELECTION, BALLOT FORM, CERTAIN COUNTIES, CHRISTIAN, JASPER. — 1. Whenever a petition, signed by the owners of a majority of the acres of land, within a road district organized under the provisions of sections 233.170 to 233.315 shall be filed with the county commission of any county in which such district is situated, setting forth the name of the district and the number of acres owned by each signer of such petition and the whole number of acres in such district, the county commission shall have power, if in its opinion the public good will be thereby advanced, to disincorporate such road district. No such road district shall be disincorporated until notice is published in at least one newspaper of general circulation in the county where the district is situated for four weeks successively prior to the hearing of such petition.

2. In any county with a population of at least thirty-two thousand inhabitants which adjoins a county of the first classification which contains a city with a population of one hundred thousand or more inhabitants that adjoins no other county of the first classification, whenever a petition signed by at least fifty registered voters residing within the district organized under the provisions of sections 233.170 to 233.315 is filed with the county clerk of the county in which the district is situated, setting forth the name of the district and requesting the disincorporation of such district, the county clerk shall certify for election the following question to be voted upon by the eligible voters of the district:

Shall the..... incorporated road district organized under the provisions of sections 233.170 to 233.315, RSMo, be dissolved?

YES

NO

If a majority of the persons voting on the question are in favor of the proposition, then the county commission shall disincorporate the road district.

3. The petition filed pursuant to subsection 2 of this section shall be submitted to the clerk of the county no later than eight weeks prior to the next countywide election at which the question will be voted upon.

4. Notwithstanding other provisions of this section to the contrary, in any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants, any petition to disincorporate a road district organized under sections 233.170 to 233.315 shall be presented to the county commission or similar authority. The petition shall be signed by

the lesser of fifty or a majority of the registered voters residing within the district, shall state the name of the district, and shall request the disincorporation of the district. If a petition is submitted as authorized in this section, and it is the opinion of the county commission that the public good will be advanced by the disincorporation after providing notice and a hearing as required in section 233.295, then the county commission shall disincorporate the road district. This subsection shall not apply to any road district located in two counties.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide fiscal relief to certain incorporated road districts, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 7, 2004

HB 904 [HB 904]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals the Uniform Commercial Code provisions relating to bulk transfers.

AN ACT to repeal sections 400.1-105, 400.6-101, 400.6-102, 400.6-103, 400.6-104, 400.6-105, 400.6-107, 400.6-108, 400.6-109, 400.6-110, and 400.6-111, RSMo, and to enact in lieu thereof one new section relating to bulk transfers.

SECTION

A. Enacting clause.

400.001-105. Territorial application of the act — parties' power to choose applicable law.

400.006-101. Short title.

400.006-102. "Bulk transfers" — transfers of equipment — enterprises subject to this article — bulk transfer subject to this article.

400.006-103. Transfers excepted from this article.

400.006-104. Schedule of property, list of creditors.

400.006-105. Notice to creditors.

400.006-107. The notice.

400.006-108. Auction sales — "auctioneer".

400.006-109. What creditors protected.

400.006-110. Subsequent transfers.

400.006-111. Limitation of actions and levies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 400.1-105, 400.6-101, 400.6-102, 400.6-103, 400.6-104, 400.6-105, 400.6-107, 400.6-108, 400.6-109, 400.6-110, and 400.6-111, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 400.1-105, to read as follows:

400.001-105. TERRITORIAL APPLICATION OF THE ACT — PARTIES' POWER TO CHOOSE APPLICABLE LAW. — (1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the

law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 400.2-402.

Applicability of the Article on Leases. Sections 400.2A-105 and 400.2A-106.

Applicability of the Article on Bank Deposits and Collections. Section 400.4-102.

Letter of credit. Section 400.5-116.

[Bulk transfers subject to the Article on Bulk Transfers. Section 400.6-102.]

Applicability of the Article on Investment Securities. Section 400.8-110.

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests. Sections 400.9-301 through 400.9-307.

[400.006-101. SHORT TITLE. — This article shall be known and may be cited as "Uniform Commercial Code — Bulk Transfers".]

[400.006-102. "BULK TRANSFERS" — TRANSFERS OF EQUIPMENT — ENTERPRISES SUBJECT TO THIS ARTICLE — BULK TRANSFER SUBJECT TO THIS ARTICLE. — (1) A "bulk transfer" is any transfer in bulk and not in the ordinary course of the transferor's business of a major part of the materials, supplies, merchandise or other inventory (section 400.9-109) of an enterprise subject to this article.

(2) A transfer of a substantial part of the equipment (section 400.9-109) of such an enterprise is a bulk transfer if it is made in connection with a bulk transfer of inventory, but not otherwise.

(3) The enterprises subject to this article are all those whose principal business is the sale of merchandise from stock, including those who manufacture what they sell.

(4) Except as limited by the following section all bulk transfers of goods located within this state are subject to this article.]

[400.006-103. TRANSFERS EXCEPTED FROM THIS ARTICLE. — The following transfers are not subject to this article:

(1) Those made to give security for the performance of an obligation;

(2) General assignments for the benefit of all the creditors of the transferor, and subsequent transfers by the assignee thereunder;

(3) Transfers in settlement or realization of a lien or other security interest;

(4) Sales by executors, administrators, receivers, trustees in bankruptcy, or any public officer under judicial process;

(5) Sales made in the course of judicial or administrative proceedings for the dissolution or reorganization of a corporation and of which notice is sent to the creditors of the corporation pursuant to order of the court or administrative agency;

(6) Transfers to a person maintaining a known place of business in this state who becomes bound to pay the debts of a transferor in full and gives public notice of that fact, and who is solvent after becoming so bound;

(7) A transfer to a new business enterprise organized to take over and continue the business, if public notice of the transaction is given and the new enterprise assumes the debts of the transferor and he receives nothing from the transaction except an interest in the new enterprise junior to the claims of creditors;

(8) Transfers of property which is exempt from execution.

Public notice under subsection (6) or subsection (7) may be given by publishing once a week for two consecutive weeks in a newspaper of general circulation where the transferor had its

principal place of business in this state an advertisement including the names and addresses of the transferor and transferee and the effective date of the transfer.]

[400.006-104. SCHEDULE OF PROPERTY, LIST OF CREDITORS. — (1) Except as provided with respect to auction sales (section 400.6-108), a bulk transfer subject to this article is ineffective against any creditor of the transferor unless:

(a) The transferee requires the transferor to furnish a list of his existing creditors prepared as stated in this section; and

(b) The parties prepare a schedule of the property transferred sufficient to identify it; and

(c) The transferee preserves the list and schedule for six months next following the transfer and permits inspection of either or both and copying therefrom at all reasonable hours by any creditor of the transferor, or files the list and schedule in the office of the recorder of deeds of the county in which the transferor resides.

(2) The list of creditors must be signed and sworn to or affirmed by the transferor or his agent. It must contain the names and business addresses of all creditors of the transferor, with the amounts when known, and also the names of all persons who are known to the transferor to assert claims against him even though such claims are disputed. If the transferor is the obligor of an outstanding issue of bonds, debentures or the like as to which there is an indenture trustee, the list of creditors need include only the name and address of the indenture trustee and the aggregate outstanding principal amount of the issue.

(3) Responsibility for the completeness and accuracy of the list of creditors rests on the transferor, and the transfer is not rendered ineffective by errors or omissions therein unless the transferee is shown to have had knowledge.]

[400.006-105. NOTICE TO CREDITORS. — In addition to the requirements of section 400.6-104, any bulk transfer subject to this article except one made by auction sale (section 400.6-108) is ineffective against any creditor of the transferor unless at least ten days before he takes possession of the goods or pays for them, whichever happens first, the transferee gives notice of the transfer in the manner and to the persons hereafter provided (section 400.6-107).]

[400.006-107. THE NOTICE. — (1) The notice to creditors (section 400.6-105) shall state:

(a) that a bulk transfer is about to be made; and

(b) the names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and

(c) whether or not all the debts of the transferor are to be paid in full as they fall due as a result of the transaction, and if so, the address to which creditors should send their bills.

(2) If the debts of the transferor are not to be paid in full as they fall due or if the transferee is in doubt on that point then the notice shall state further:

(a) the location and general description of the property to be transferred and the estimated total of the transferor's debts;

(b) the address where the schedule of property and list of creditors (section 400.6-104) may be inspected;

(c) whether the transfer is to pay existing debts and if so the amount of such debts and to whom owing;

(d) whether the transfer is for new consideration and if so the amount of such consideration and the time and place of payment.

(3) The notice in any case shall be delivered personally or sent by registered or certified mail to all the persons shown on the list of creditors furnished by the transferor (section 400.6-104) and to all other persons who are known to the transferee to hold or assert claims against the transferor.]

[400.006-108. AUCTION SALES — "AUCTIONEER". — (1) A bulk transfer is subject to this article even though it is by sale at auction, but only in the manner and with the results stated in this section.

(2) The transferor shall furnish a list of his creditors and assist in the preparation of a schedule of the property to be sold, both prepared as before stated (section 400.6-104).

(3) The person or persons other than the transferor who direct, control or are responsible for the auction are collectively called the "auctioneer". The auctioneer shall:

(a) receive and retain the list of creditors and prepare and retain the schedule of property for the period stated in this article (section 400.6-104);

(b) give notice of the auction personally or by registered or certified mail at least ten days before it occurs to all persons shown on the list of creditors and to all other persons who are known to him to hold or assert claims against the transferor.

(4) Failure of the auctioneer to perform any of these duties does not affect the validity of the sale or the title of the purchasers, but if the auctioneer knows that the auction constitutes a bulk transfer such failure renders the auctioneer liable to the creditors of the transferor as a class for the sums owing to them from the transferor up to but not exceeding the net proceeds of the auction. If the auctioneer consists of several persons their liability is joint and several.]

[400.006-109. WHAT CREDITORS PROTECTED. — The creditors of the transferor mentioned in this article are those holding claims based on transactions or events occurring before the bulk transfer, but creditors who become such after notice to creditors is given (sections 400.6-105 and 400.6-107) are not entitled to notice.]

[400.006-110. SUBSEQUENT TRANSFERS. — When the title of a transferee to property is subject to a defect by reason of his noncompliance with the requirements of this article, then:

(1) a purchaser of any of such property from such transferee who pays no value or who takes with notice of such noncompliance takes subject to such defect, but

(2) a purchaser for value in good faith and without such notice takes free of such defect.]

[400.006-111. LIMITATION OF ACTIONS AND LEVIES. — No action under this article shall be brought nor levy made more than six months after the date on which the transferee took possession of the goods unless the transfer has been concealed. If the transfer has been concealed, actions may be brought or levies made within six months after its discovery.]

Approved June 25, 2004

HB 916 [SCS HB 916]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the crime of identity theft and creates a new crime of trafficking in stolen identities.

AN ACT to repeal sections 570.223 and 575.120, RSMo, and to enact in lieu thereof three new sections relating to identity theft, with penalty provisions.

SECTION

A. Enacting clause.

570.223. Identity theft — penalty — restitution — other civil remedies available — exempted activities.

570.224. Trafficking in stolen identities, crime of — possession of documents, exemptions — violation, penalty.

575.120. False impersonation — penalties.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 570.223 and 575.120, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 570.223, 570.224, and 575.120, to read as follows:

570.223. IDENTITY THEFT — PENALTY — RESTITUTION — OTHER CIVIL REMEDIES AVAILABLE — EXEMPTED ACTIVITIES. — 1. A person commits the crime of identity theft if he **or she** knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his **or her** use.

2. [Identity theft is punishable by up to six months in jail for the first offense; up to one year in jail for the second offense; and one to five years imprisonment for the third or subsequent offense.] **The term "means of identification" as used in this section includes, but is not limited to, the following:**

- (1) Social Security numbers;
- (2) Drivers license numbers;
- (3) Checking account numbers;
- (4) Savings account numbers;
- (5) Credit card numbers;
- (6) Debit card numbers;
- (7) Personal identification (PIN) code;
- (8) Electronic identification numbers;
- (9) Digital signatures;
- (10) Any other numbers or information that can be used to access a person's financial resources;
- (11) Biometric data;
- (12) Fingerprints;
- (13) Passwords;
- (14) Parent's legal surname prior to marriage;
- (15) Passports; or
- (16) Birth certificates.

3. A person found guilty of identity theft shall be punished as follows:

(1) Identity theft or attempted identity theft which does not result in the theft or appropriation of credit, money, goods, services, or other property is a class B misdemeanor;

(2) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property not exceeding five hundred dollars in value is a class A misdemeanor;

(3) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding five hundred dollars and not exceeding one thousand dollars in value is a class D felony;

(4) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding one thousand dollars and not exceeding ten thousand dollars in value is a class C felony;

(5) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding ten thousand dollars and not exceeding one hundred thousand dollars in value is a class B felony;

(6) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding one hundred thousand dollars in value is a class A felony.

4. In addition to the provisions of subsection [2] 3 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

- (1) In clearing the credit history or credit rating of the victim; and
- (2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

5. In addition to the criminal penalties in subsections 3 and 4 of this section, any person who commits an act made unlawful by subsection 1 of this section shall be liable to the person to whom the identifying information belonged for civil damages of up to five thousand dollars for each incident, or three times the amount of actual damages, whichever amount is greater. A person damaged as set forth in subsection 1 of this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of subsection 1 of this section. The court, in an action brought under this subsection, may award reasonable attorneys' fees to the plaintiff.

6. If the identifying information of a deceased person is used in a manner made unlawful by subsection 1 of this section, the deceased person's estate shall have the right to recover damages pursuant to subsection 5 of this section.

7. Any person charged with identity theft shall be prosecuted:

- (1) In the county in which the offense is committed; or
- (2) If the offense is committed partly in one county and partly in another, or if the elements of the offense occur in more than one county, then in any of the counties where any element of the offense occurred; or
- (3) In the county in which the defendant resides; or
- (4) In the county in which the victim resides; or
- (5) In the county in which the property obtained or attempted to be obtained was located.

Civil actions under this section must be brought within five years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered.

8. Civil action pursuant to this section does not depend on whether a criminal prosecution has been or will be instituted for the acts that are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law.

9. Sections 570.223 and 570.224 shall not apply to the following activities:

- (1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;
- (2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;
- (3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
- (4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.

10. Notwithstanding the provisions of subdivisions (1) or (2) of subsection 3 of this section, every person who has previously pled guilty to or been found guilty of identity theft or attempted identity theft, and who subsequently pleads guilty to or is found guilty of identity theft or attempted identity theft of credit, money, goods, services, or other property not exceeding five hundred dollars in value is guilty of a class D felony and shall be punished accordingly.

11. The value of property or services is its highest value by any reasonable standard at the time the identity theft is committed. Any reasonable standard includes, but is not limited to market value within the community, actual value, or replacement value.

12. If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, and services involved.

13. In a criminal proceeding pursuant to this section, venue will be proper in any county where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

14. A person who commits the crime of identity theft for the purpose of committing a terrorist act as defined by existing federal law, or for the purpose of aiding or abetting another in committing a terrorist act shall be guilty of a Class A felony.

15. A person who commits the crime of identity theft for the purpose of voting, obtaining another person's voting privileges, or altering the results of an election or aiding or abetting another in obtaining another person's voting privileges or altering the result of an election shall be guilty of a Class C felony.

570.224. TRAFFICKING IN STOLEN IDENTITIES, CRIME OF — POSSESSION OF DOCUMENTS, EXEMPTIONS — VIOLATION, PENALTY. — 1. A person commits the crime of trafficking in stolen identities when such person manufactures, sells, transfers, purchases, or possesses, with intent to sell or transfer means of identification or identifying information, for the purpose of committing identity theft. In determining possession of five or more identification documents of the same person, or possession of identifying information of five or more separate persons for the purposes of evidence pursuant to this subsection, the following do not apply:

- (1) The possession of his or her own identification documents;
- (2) The possession of the identification documents of a person who has consented to the person at issue possessing his or her identification documents.

2. Unauthorized possession of means of identification of five or more separate persons, shall be evidence that the identities are possessed with intent to manufacture, sell, or transfer means of identification or identifying information for the purpose of committing identity theft.

3. Trafficking in stolen identities is a class B felony.

575.120. FALSE IMPERSONATION — PENALTIES. — 1. A person commits the crime of false impersonation if [he] **such person**:

- (1) Falsely represents himself **or herself** to be a public servant with purpose to induce another to submit to his **or her** pretended official authority or to rely upon his **or her** pretended official acts, and

- (a) Performs an act in that pretended capacity; or

- (b) Causes another to act in reliance upon his **or her** pretended official authority; [or]

- (2) Falsely represents himself **or herself** to be a person licensed to practice or engage in any profession for which a license is required by the laws of this state with purpose to induce another to rely upon such representation, and

- (a) Performs an act in that pretended capacity; or

- (b) Causes another to act in reliance upon such representation; **or**

- (3) **Upon being arrested, falsely represents himself or herself, to a law enforcement officer, with the first and last name, date of birth, or Social Security number, or a substantial number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction, misdemeanor, or felony that contains the first and last name, date of birth, and Social Security number, or a substantial number of identifying factors or characteristics to that**

of such other person as to cause such other person to be identified as the actual person arrested or convicted.

2. If a violation of subdivision (3) of subsection 1 of this section is discovered prior to any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney, bringing any action on the underlying charge, shall notify the court thereof, and the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

3. If a violation of subdivision (3) of subsection 1 of this section is discovered after any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney of the county in which the conviction occurred shall file a motion in the underlying case with the court to correct the arrest and court records after discovery of the fraud upon the court. The court shall order the false identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

4. Any person who is the victim of a false impersonation and whose identity has been falsely reported in arrest or conviction records may move for expungement and correction of said records under the procedures set forth in section 610.123, RSMo. Upon a showing that a substantial number of identifying factors of the victim was falsely ascribed to the person actually arrested or convicted, the court shall order the false identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate factors from the arrest and court records.

5. False impersonation is a class B misdemeanor unless the person represents himself to be a law enforcement officer in which case false impersonation is a class A misdemeanor.

Approved May 10, 2004

HB 923 [HB 923]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends the requirements of the Missouri Family Trust.

AN ACT to repeal sections 402.199, 402.200, 402.205, 402.215, and 402.217, RSMo, and to enact in lieu thereof five new sections relating to the Missouri family trust.

SECTION

- A. Enacting clause.
- 402.199. Declaration of policy — purpose of Missouri family trust.
- 402.200. Definitions.
- 402.205. Trust, who may participate — trust benefits not to affect state benefits — classification of assets of board — tax exemption.
- 402.215. Board of trustees, duties — provisions for trust documents.
- 402.217. Restrictions — income not subject to seizure — certain interests in income not alienable.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 402.199, 402.200, 402.205, 402.215, and 402.217, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 402.199, 402.200, 402.205, 402.215, and 402.217, to read as follows:

402.199. DECLARATION OF POLICY — PURPOSE OF MISSOURI FAMILY TRUST. — 1. The general assembly hereby finds and declares the following:

(1) It is an essential function of state government to provide basic support for persons with a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease;

(2) The cost of providing basic support for persons with a mental or physical impairment is difficult for many to afford and they are forced to rely upon the government to provide such support;

(3) Families and friends of persons with a mental or physical impairment desire to supplement, but not replace, the basic support provided by state government and other governmental programs;

(4) The cost of medical, social or other supplemental services is often provided by families and friends of persons with mental or physical impairments, for the lifetime of such persons;

(5) It is in the best interest of the people of this state to encourage, enhance and foster the ability of families and friends of Missouri residents **and residents of adjacent states** with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide for medical, social or other supplemental services for such persons;

(6) Permitting and assisting families and friends of Missouri residents **and residents of adjacent states** with mental or physical impairments to supplement, but not to replace, the basic support provided by state government and other governmental programs and to provide medical, social or other supplemental services for such persons as necessary and desirable for the public health, safety and welfare of this state.

2. In light of the findings and declarations described in subsection 1 of this section, the general assembly declares the purpose of the Missouri family trust to be the encouragement, enhancement and fostering of the provision of medical, social or other supplemental services for persons with a mental or physical impairment by family and friends of such persons.

402.200. DEFINITIONS. — As used in sections 402.199 to 402.220, the following terms mean:

(1) "Board of trustees", the Missouri family trust board of trustees;

(2) "Charitable trust", the trust established to provide benefits for individuals, as set forth in section 402.215;

(3) "Department", the department of mental health;

(4) "Disability", a mental or physical impairment that substantially limits one or more major life activities, whether the impairment is congenital or acquired by accident, injury or disease, and where the impairment is verified by medical findings;

(5) "Life beneficiary" **or "beneficiary"**, a designated beneficiary of the Missouri family trust;

(6) "Net income", the earnings received on investments less administrative expenses and fees;

(7) "Principal balance", the fair market value of all contributions made to a particular account, less distributions, determined as of the end of the calendar month immediately preceding the occurrence giving rise to any determination of principal balance;

(8) "Requesting party", the party desiring arbitration;

(9) "Responding party", the other party in arbitration of a dispute regarding benefits to be provided by the trust;

- (10) "Successor trust", the trust established upon distribution by the board of trustees pursuant to notice of withdrawal or termination and administered as set forth in section 402.215;
- (11) "Trust", the Missouri family trust established pursuant to sections 402.200 to 402.220;
- (12) "Trustee", a member of the Missouri family trust board of trustees.

402.205. TRUST, WHO MAY PARTICIPATE — TRUST BENEFITS NOT TO AFFECT STATE BENEFITS — CLASSIFICATION OF ASSETS OF BOARD — TAX EXEMPTION. — 1. The families, friends and guardians of persons who have a disability or are eligible for services provided by the department of mental health, or both, may participate in a trust which may supplement the care, support, and treatment of such persons pursuant to the provisions of sections 402.199 to 402.220. Neither the contribution to the trust for the benefit of a life beneficiary nor the use of trust income to provide benefits shall in any way reduce, impair or diminish the benefits to which such person is otherwise entitled by law; and the administration of the trust shall not be taken into consideration in appropriations for the department of mental health to render services required by law.

2. Unless otherwise prohibited by federal statutes or regulations, all state agencies shall disregard the trust as a resource when determining eligibility of **Missouri residents** for assistance under chapter 208, RSMo.

3. The assets of the board of trustees and assets held in trust pursuant to the provisions of sections 402.199 to 402.220 shall not be considered state money, assets of the state or revenue for any purposes of the state constitution or statutes. The property of the board of trustees and its income and operations shall be exempt from all taxation by the state or any of its political subdivisions.

402.215. BOARD OF TRUSTEES, DUTIES — PROVISIONS FOR TRUST DOCUMENTS. — 1. The board of trustees is authorized and directed to establish and administer the Missouri family trust **and to advise, consult with, and render services to departments and agencies of the state of Missouri and to other nonprofit organizations which qualify as organizations pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and which provide services to Missouri residents with a disability.** The board shall be authorized to execute all documents necessary to establish and administer the trust including the formation of a not-for-profit corporation created pursuant to chapter 355, RSMo, and to qualify as an organization pursuant to Section 501(c)(3) of the United States Internal Revenue Code **of 1986, as amended.**

2. The trust documents shall include and be limited by the following provisions:

(1) The Missouri family trust shall be authorized to accept contributions from any source including trustees, personal representatives, personal custodians pursuant to chapter 404, RSMo, and other fiduciaries, [other than directly] **and, subject to the provisions of subdivision (11) of this subsection,** from the life beneficiaries and their respective spouses, to be held, administered, managed, invested and distributed in order to facilitate the coordination and integration of private financing for individuals who have a disability or are eligible for services provided by the Missouri department of mental health, or both, while maintaining the eligibility of such individuals for government entitlement funding. All contributions, and the earnings thereon, shall be administered as one trust fund; however, separate accounts shall be established for each designated beneficiary. The income earned, after deducting administrative expenses, shall be credited to the accounts of the respective life beneficiaries in proportion to the principal balance in the account for each such life beneficiary, to the total principal balances in the accounts for all life beneficiaries.

(2) Every donor may designate a specific person as the life beneficiary of the contribution made by such donor. In addition, each donor may name a cotrustee, including the donor, and a successor or successors to the cotrustee, to act with the trustees of the trust on behalf of the designated life beneficiary; provided, however, a life beneficiary shall not be eligible to be a

cotrustee or a successor cotrustee; provided, however, that court approval of the specific person designated as life beneficiary and as cotrustee or successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo.

(3) The [trust] **cotrustee**, with the consent of the [cotrustee] **trust**, shall **from time to time, but not less frequently than** annually [agree on] **determine** the amount of income or principal or income and principal to be used to provide noncash benefits and the nature and type of benefits to be provided for the life beneficiary. Any net income which is not used shall be added to principal annually. [In the event that the trust and the donor, serving as the cotrustee, shall be unable to agree either on the amount of income or principal or income and principal to be used for or the benefits to be provided, then none of the income or principal shall be used.] In the event that the trust and the cotrustee[, other than the donor,] shall be unable to agree either on the amount of income or principal or income and principal to be used or the benefits to be provided, then either the trust or the cotrustee shall have the right to request that the matter be resolved by arbitration **which shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association**. The requesting party shall send a written request for arbitration to the responding party and shall in such request set forth the name, address and telephone number of such requesting party's arbitrator. The responding party shall, within ten days after receipt of the request for arbitration, set forth in writing to the requesting party the name, address and telephone number of the responding party's arbitrator. Copies of the request for arbitration and response shall be sent to the director of the department. If the two designated arbitrators shall be unable to agree upon a third arbitrator within ten days after the responding party shall have identified such party's arbitrator, then the director of the department shall designate the third arbitrator by written notice to the requesting and responding parties' arbitrators. The three arbitrators shall meet, **conduct a hearing**, and render a decision within thirty days after the appointment of the third arbitrator. A decision of a majority of the arbitrators shall be binding upon the requesting and responding parties. Each party shall pay the fees and expenses of such party's arbitrator and the fees and expenses of the third arbitrator shall be borne equally by the parties. **Judgment on the arbitrators' award may be entered in any court of competent jurisdiction.**

(4) Any donor, during his or her lifetime, except for a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, may revoke any gift made to the trust; provided, however, any donor may, at any time, voluntarily waive the right to revoke. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust. In the event that at the time the donor shall have revoked his or her gift to the trust the life beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent of the principal balance shall be returned to the donor. The balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust.

(5) Any acting cotrustee, except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo, other than the original donor of a life beneficiary's account, shall have the right, for good and sufficient reason upon written notice to the trust and the department stating such reason, to withdraw all or a portion of the principal balance. In such event, the applicable portion, as set forth [below] **in subdivision (7) of this subsection**, of the principal balance shall then be distributed to the successor trust and the balance of the principal balance together with any undistributed net income, shall be distributed to the charitable trust.

(6) In the event that a life beneficiary for whose benefit a contribution or contributions shall have been made to the family trust, [except a cotrustee of a trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo,] shall [move from the state of Missouri or otherwise] cease to be eligible for services provided by the department of mental health and neither the donor nor the then acting cotrustee, **except a cotrustee of a trust created pursuant**

to section 473.657, RSMo, or section 475.093, RSMo, shall revoke or withdraw [all] the applicable portion, as set for in subdivision (7) of this subsection, of the principal balance, then the board of trustees may, by written notice to such donor or acting cotrustee, terminate the trust as to such beneficiary and thereupon shall distribute the applicable portion, as set forth [herein] in subdivision (7) of this subsection, of the principal balance, to the trustee of the successor trust to be held, administered and distributed by such trustee in accordance with the provisions of the successor trust described in subdivision [(10)] (12) of this subsection.

(7) If at the time of withdrawal or termination as provided in subdivision (6) of this subsection of a life beneficiary's account from the trust either the life beneficiary shall not have received any benefits provided by the use of the trust income or principal or the life beneficiary shall have received benefits provided by the use of trust income or principal for a period of not more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to ninety percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust; provided, however, if the life beneficiary at the time of such withdrawal by the cotrustee or termination as provided above shall have received any benefits provided by the use of trust income or principal for a period of more than five years from the date a contribution shall have first been made to the trust for such life beneficiary, then an amount equal to seventy-five percent of the principal balance shall be distributed to the successor trust, and the balance of the principal balance together with all undistributed net income, shall be distributed to the charitable trust.

(8) Subject to the provisions of subdivision (9) of this subsection, if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons as the donor shall have designated. Any undistributed net income shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, in such event, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons as the donor designated, and the balance of the principal balance, together with all undistributed net income, shall be distributed to the charitable trust.

(9) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. [The balance, if any, of the principal balance, together with all] **Any** undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the principal balance, together with all undistributed income shall be distributed to the charitable trust. **If there are no heirs at the time of either such distribution, the then-principal balance together with all undistributed income shall be distributed to the charitable trust.**

(10) In the event the trust is created as a result of the recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to one hundred percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law. **If there are no heirs, the balance, if any, of the principal balance, together with all undistributed income shall be**

distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary should have been receiving benefits provided by the use of trust income or principal or income and principal then the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law[.] **and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs,** the balance of the principal balance, together with all undistributed income, shall be distributed to the charitable trust.

(11) **In the event an account is established with the assets of the beneficiary by the beneficiary, a family member, the beneficiary's guardian, or pursuant to a court order, all in accordance with Title 42 of the United States Code Section 1396p(d)(4)(C), then upon the death of the life beneficiary the state of Missouri shall receive all amounts remaining in the life beneficiary's account up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the United States Code, and then to the extent there is any amount remaining in the life beneficiary's account, an amount equal to seventy-five percent of the principal balance shall be distributed to such person or persons who are the life beneficiary's heirs at law and the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust. If there are no heirs, the balance of the principal balance together with all undistributed income shall be distributed to the charitable trust.**

(12) **Notwithstanding the provisions of subdivisions (4) to (8) of this subsection to the contrary, the donor may voluntarily agree to a smaller percentage of the principal balance in any account established by such donor than is provided in this subsection to be returned to the donor or distributed to the successor trust, as the case may be; and a corresponding larger percentage of the principal balance in such account to be distributed either to the charitable trust or to a designated restricted account within the charitable trust.**

(13) Upon receipt of a notice of withdrawal from a designated cotrustee, other than the original donor, and a determination by the board of trustees that the reason for such withdrawal is good and sufficient, or upon the issuance of notice of termination by the board of trustees, the board of trustees shall distribute and pay over to the designated trustee of the successor trust the applicable portion of the principal balance **as set forth in subdivision (7) of this subsection;** provided, however, that court approval of distribution to a successor trustee shall be required in connection with any trust created pursuant to section 473.657, RSMo, or section 475.093, RSMo. The designated trustee of the successor trust shall hold, administer and distribute the principal and income of the successor trust, in the discretion of such trustee, for the maintenance, support, health, education and general well-being of the beneficiary, recognizing that it is the purpose of the successor trust to supplement, not replace, any government benefits for the beneficiary's basic support to which such beneficiary may be entitled and to increase the quality of such beneficiary's life by providing the beneficiary with those amenities which cannot otherwise be provided by public assistance or entitlements or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his or her eligibility for public assistance. Expenditures may include payment of the funeral and burial costs of the beneficiary. The designated trustee, in his or her discretion, may make payments from time to time for a

person to accompany the beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit the beneficiary. Any undistributed income shall be added to the principal from time to time. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including basic food, shelter and clothing, if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which the beneficiary is then entitled. After the death and burial of the beneficiary, the remaining balance of the successor trust shall be distributed to such person or persons as the donor shall have designated.

[(12)] **(14)** The charitable trust shall be administered as part of the family trust, but as a separate account. The income attributable to the charitable trust shall be used to provide benefits for individuals who have a disability or who are eligible for services provided by or through the department and who either have no immediate family or whose immediate family, in the reasonable opinion of the trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for such individuals, while maintaining such individuals' eligibility for government entitlement funding. **The trustees may from time to time determine to use part of the principal of the charitable trust to provide such benefits.** As used in this section, the term "immediate family" includes parents, children and siblings. The individuals to be beneficiaries of the charitable trust shall be recommended to the trustees by the department and others from time to time. The trustees shall annually [agree on] **determine** the amount of charitable trust income **or principal** to be used to provide benefits and the nature and type of benefits to be provided for each identified beneficiary of the charitable trust. Any income not used shall be added to principal annually.

(15) Any person, with the consent of the board of trustees, may establish a restricted account within the charitable trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of such restricted account provided such beneficiaries qualify as participants of the trust as set forth in subsection 1 of section 402.205.

402.217. RESTRICTIONS — INCOME NOT SUBJECT TO SEIZURE — CERTAIN INTERESTS IN INCOME NOT ALIENABLE. — 1. No beneficiary shall have any vested or property rights or interests in the family trust, nor shall any beneficiary have the power to anticipate, assign, convey, alienate, or otherwise encumber any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by such beneficiary, nor shall the principal or income of the family trust be subject to seizure by any creditor or any beneficiary under any writ or proceeding in law or in equity.

2. Except for the right of a donor to revoke any gift made to the trust, pursuant to subdivision (4) of subsection 2 of section 402.215, and the right of any acting cotrustee, other than the original donor, to withdraw all or a portion of the [original contribution] **principal balance**, pursuant to subdivision (5) of subsection 2 of section 402.215, neither the donor nor any acting cotrustee shall have the right to sell, assign, convey, alienate or otherwise encumber, for consideration or otherwise, any interest in the income or principal of the family trust, nor shall such income or the principal or any interest of any beneficiary thereunder be liable for any debt incurred by the donor or any acting cotrustee, nor shall the principal or income of the family trust be subject to seizure by any creditor of any donor or any acting cotrustee under any writ or proceeding in law or in equity.

Approved June 24, 2004

HB 928 [SCS HCS HB 928 AND HCS HB 1123 AND HCS HB 1280]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes various provisions related to driver's licenses and motor vehicles.

AN ACT to repeal sections 301.041, 301.2999, 302.178, 390.136, 390.340, 622.095, and 622.618, RSMo, and to enact in lieu thereof five new sections relating to motor vehicles, with penalty provisions.

SECTION

- A. Enacting clause.
- 301.041. Reciprocity agreement, registered commercial vehicles — procedures — failure to display plates, penalty — director may promulgate rules — validity of previously issued plates.
- 301.2999. Limitation on special license plates, organization authorizing use of its emblem for a fee.
- 302.178. Intermediate driver's license, issued to whom, requirements, limitations, fee, duration, point assessment — penalty, application for full driving privileges, requirements — exceptions — rulemaking authority, procedure.
- 390.136. Motor carriers, regulatory license required — annual, issued when — emergency or temporary license for seventy-two hours — fees — out-of-state agreements, effect — violation, penalty.
- 622.095. Division authorized to contract with other jurisdictions — uniform administration of certain interstate vehicles — powers — base state registration fund established — properly registered vehicle operation allowed — fees may be staggered and prorated.
- 390.340. Annual licenses required by 390.136, period of effectiveness, fees, when due.
- 622.618. Motor carriers, license required — annual, issued when — annual license fees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.041, 301.2999, 302.178, 390.136, 390.340, 622.095, and 622.618, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 301.041, 301.2999, 302.178, 390.136, and 622.095, to read as follows:

301.041. RECIPROCITY AGREEMENT, REGISTERED COMMERCIAL VEHICLES — PROCEDURES — FAILURE TO DISPLAY PLATES, PENALTY — DIRECTOR MAY PROMULGATE RULES — VALIDITY OF PREVIOUSLY ISSUED PLATES. — 1. All commercial motor vehicles and trailers registered pursuant to this section or to be operated under **reciprocity** agreements [as provided for in sections 301.271 to 301.279] shall be registered annually, **or in the discretion of the state highways and transportation commission, staggered in such manner as to be registered for a one-year period beginning on the first day of a quarter during such year and in such manner as the commission may determine by regulation. To facilitate the transition from an annual registration to a staggered registration, the commission shall inquire of all registrations as to which calendar quarter the registrant wishes to use as the beginning date of the registration once the transition to staggered registration is complete. If the registrant does not respond by the date selected by the commission, or if no quarter is selected, the registrant shall remain on a calendar year registration. The commission may issue prorated registrations pursuant to this section for periods of greater than or less than one year during the transition to a nonannual year registration, but no registration shall exceed eighteen months nor be less than six months. The commission may issue a prorated, by quarter, partial year registration at any time for additions to a fleet made after an initial registration of such fleet, or such other reasons as approved by the commission or its designee upon the request of the registrant.**

2. An application for renewal registration pursuant to this section shall be made with all required documents on or before [October first of each year] **the first day of the month that is three calendar months immediately prior to the beginning date of the registration.**

Renewal applications received after [October first] **the first day of the third calendar month immediately prior to the registration** shall be assessed a penalty of one hundred dollars. The [director or his or her] **commission's** designee may waive the penalty pursuant to this subsection for good cause.

3. Fees for commercial motor vehicles and trailers renewed pursuant to this section shall be paid no later than [December first of each year] **the first day of the month that is one calendar month immediately prior to the beginning date of the registration** except for payments made on an installment basis as provided in subsection 4 of this section. Renewal application fees not paid by [December first] **the first day of the month immediately prior to the registration** shall be assessed a penalty of fifty dollars per vehicle, but in no case shall such penalty exceed one hundred fifty dollars per application. The [director or his or her] **commission's** designee may, for good cause, waive or reduce any penalties assessed pursuant to this subsection.

4. Any owner of a commercial motor vehicle or trailer operated pursuant to this section or **reciprocity** agreements [provided in sections 301.271 to 301.279] may elect to pay the Missouri portion of the annual registration fee in two equal installments, except that no such installment shall be less than one hundred dollars. The first installment shall be payable on or before [December first] **the first day of the month immediately prior to the beginning date of the registration**, and the second installment shall be payable on or before [June first of that registration year] **the first day of the sixth month of that registration one-year period**. Every owner electing to pay on an installment basis shall file [with the director of the department of revenue, on or before December first] **on or before the first day of the month immediately prior to the beginning date of the registration**, a surety bond, certificate of deposit or irrevocable letter of credit as defined in section 400.5-103, RSMo, to guarantee the payment of the second installment. The bond or certificate or letter of credit shall be in an amount equal to the payment guaranteed. **The commission may require such installments to be filed at other times of the year if a nonannual registration is issued pursuant to subsection 1 of this section.**

[5. If a new application for registration of a commercial vehicle or trailer is made other than as specified in subsection 1 of this section, the registration fee shall be prorated as follows:

(1) For applications made between April first and June thirtieth, the applicant shall pay three-fourths of the annual registration fee;

(2) For applications made between July first and September thirtieth, the applicant shall pay one-half of the annual registration fee; and

(3) For applications made after October first of the current registration year, the applicant shall pay one-fourth of the annual registration fee.

6.] **5.** Any applicant who fails to timely renew his or her registration with all required documents pursuant to this section or who fails to timely pay any fees and penalties owed pursuant to this section shall not be issued a temporary registration for a motor vehicle or a trailer issued pursuant to this section or under **reciprocity** agreements [as provided for in sections 301.271 and 301.279]. Nothing in this section shall prohibit the issuance of temporary registration credentials for additions to the registrant's fleet subsequent to renewal.

[7.] **6.** The applicant for registration pursuant to this section shall affix the registration plate issued [by the director] to the front of the vehicle in accordance with the provisions of section 301.130. Any vehicle required to be registered pursuant to this section shall display the plate issued to that vehicle no later than December thirty-first of each year **or the last day of the quarter preceding the quarter in which the registration begins, as applicable**. Failure to display the registration [plates] **plate** required by this section shall constitute a class A misdemeanor.

[8.] **7.** The [director of revenue] **commission** may prescribe rules and regulations for the effective administration of this section.

[9.] **8.** Any current registration or plate for which all fees have been paid for a commercial trailer previously issued pursuant to **reciprocity** agreements [provided for in sections 301.271 and 301.277] shall remain valid even if such agreements no longer require apportionment of such trailers under such agreements, and such trailers may continue to be registered pursuant to this section.

[10.] **9.** Notwithstanding any other law to the contrary, the [highway reciprocity] commission shall have the authority pursuant to this chapter to issue permanent and temporary registrations on commercial trailers whether or not the registration is issued pursuant to **reciprocity** agreements [as provided in sections 301.271 to 301.279]. The provisions of subsection 1 of section 301.190 shall not apply to registrations issued pursuant to this subsection, provided the carrier or person to whom the registration is issued has at least one tractor as defined in section 301.010 registered with the state of Missouri pursuant to this section.

[11.] **10.** Commercial trailer plates issued pursuant to this section shall in all other respects conform to and have the same requirements as those issued pursuant to subsection 3 of section 301.067. Such plates may contain the legend ["HRC TLR"] "**COMM TRL**" in preference to the words "SHOW-ME STATE".

301.2999. LIMITATION ON SPECIAL LICENSE PLATES, ORGANIZATION AUTHORIZING USE OF ITS EMBLEM FOR A FEE. — 1. No specialized license plate shall be issued after January 1, 2002, by the director of revenue which proposes to raise revenue or funds for an organization which authorizes the use of its emblem for a fee unless such organization:

(1) Is a governmental entity; or

(2) Is an organization registered pursuant to section 501(c) of the 1986 Internal Revenue Code, as amended, or an equivalent law which applies to such not-for-profit entity.

2. Any organization which raises revenues or funds through the sponsorship of specialized license plates issued pursuant to the provisions of this chapter enacted prior to January 1, 2002, shall have until January 1, 2004, to comply with the provisions of this section. The director shall verify that all organizations that are paid fees for the use of their emblems for specialized license plates are complying with the provisions of this section. The director shall require all organizations which receive revenues for or funds for the use of their emblems to verify their status as a governmental entity or a qualified not-for-profit organization as provided in subsection 1 of this section, in a format prescribed by the director. Any specialized license plates issued prior to January 1, 2004, shall remain valid for the period in which they were registered, regardless of the status of the sponsoring organization.

3. Any moneys received by an organization authorizing the use of its emblem or insignia for a specialized license plate shall only be used by such organization to carry out the organization's charitable mission. Such moneys shall not be used for salaries or any administrative costs of the organization. No individual member of any organization authorizing the use of its emblem or insignia for a specialized license plate shall derive any personal pecuniary gain from any fees the organization collects.

4. The director of revenue shall not authorize the manufacture of the material to produce such specialized license plates with the individual seal, logo, or emblem until such time **as** the director has received [one] **two** hundred applications for such plates[. An organization shall be exempt from the provisions of this subsection if it] **and the organization** deposits with the department of revenue [the actual cost of producing the initial issuance of such plates and the director receives at least ten applications for such plates] **a fee of up to five thousand dollars to defray the cost for issuing, developing, and programming the implementation of the specialty plate.**

5. The provisions of this section shall not apply to any special license plates which bears the emblem or insignia of a branch of the U.S. military or a military organization.

302.178. INTERMEDIATE DRIVER'S LICENSE, ISSUED TO WHOM, REQUIREMENTS, LIMITATIONS, FEE, DURATION, POINT ASSESSMENT — PENALTY, APPLICATION FOR FULL DRIVING PRIVILEGES, REQUIREMENTS — EXCEPTIONS — RULEMAKING AUTHORITY, PROCEDURE. — 1. Beginning January 1, 2001, any person between the ages of sixteen and eighteen years who is qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for, and the director shall issue, an intermediate driver's license entitling the applicant, while having such license in his or her possession, to operate a motor vehicle of the appropriate class upon the highways of this state in conjunction with the requirements of this section. An intermediate driver's license shall be readily distinguishable from a license issued to those over the age of eighteen. All applicants for an intermediate driver's license shall:

- (1) Successfully complete the examination required by section 302.173;
- (2) Pay the fee required by subsection 3 of this section;
- (3) Have had a temporary instruction permit issued pursuant to subsection 1 of section 302.130 for at least a six-month period or a valid license from another state; and
- (4) Have a parent, grandparent, legal guardian, or, if the applicant is a participant in a federal residential job training program, a driving instructor employed by a federal residential job training program, sign the application stating that the applicant has completed at least twenty hours of supervised driving experience under a temporary instruction permit issued pursuant to subsection 1 of section 302.130, or, if the applicant is an emancipated minor, the person over twenty-one years of age who supervised such driving. For purposes of this section, the term "emancipated minor" means a person who is at least sixteen years of age, but less than eighteen years of age, who:
 - (a) Marries with the consent of the legal custodial parent or legal guardian pursuant to section 451.080, RSMo;
 - (b) Has been declared emancipated by a court of competent jurisdiction;
 - (c) Enters active duty in the armed forces;
 - (d) Has written consent to the emancipation from the custodial parent or legal guardian; or
 - (e) Through employment or other means provides for such person's own food, shelter and other cost-of-living expenses;
- (5) Have had no alcohol-related enforcement contacts as defined in section 302.525 during the preceding twelve months; and
- (6) Have no nonalcoholic traffic convictions for which points are assessed pursuant to section 302.302, within the preceding six months.

2. An intermediate driver's license grants the licensee the same privileges to operate that classification of motor vehicle as a license issued pursuant to section 302.177, except that no person shall operate a motor vehicle on the highways of this state under such an intermediate driver's license between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person described in subsection 1 of section 302.130; except the licensee may operate a motor vehicle without being accompanied if the travel is to or from a school or educational program or activity, a regular place of employment or in emergency situations as defined by the director by regulation. Each intermediate driver's license shall be restricted by requiring that the driver and all passengers in the licensee's vehicle wear safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle.

3. Notwithstanding the provisions of section 302.177 to the contrary, the fee for an intermediate driver's license shall be five dollars and such license shall be valid for a period of two years.

4. Any intermediate driver's licensee accumulating six or more points in a twelve-month period may be required to participate in and successfully complete a driver-improvement program approved by the director of the department of public safety. The driver-improvement program ordered by the director of revenue shall not be used in lieu of point assessment.

5. (1) An intermediate driver's licensee who has, for the preceding twelve-month period, had no alcohol-related enforcement contacts, as defined in section 302.525 and no traffic

convictions for which points are assessed, upon reaching the age of eighteen years may apply for and receive without further examination, other than a vision test as prescribed by section 302.173, a license issued pursuant to this chapter granting full driving privileges. Such person shall pay the required fee for such license as prescribed in section 302.177.

(2) **If an intermediate driver's license expires on a Saturday, Sunday, or legal holiday, such license shall remain valid for the five business days immediately following the expiration date. In no case shall a licensee whose intermediate driver's license expires on a Saturday, Sunday, or legal holiday be guilty of an offense of driving with an expired or invalid driver's license if such offense occurred within five business days immediately following an expiration date that occurs on a Saturday, Sunday, or legal holiday.**

(3) The director of revenue shall deny an application for a full driver's license until the person has had no traffic convictions for which points are assessed for a period of twelve months prior to the date of application for license or until the person is eligible to apply for a six-year driver's license as provided for in section 302.177, provided the applicant is otherwise eligible for full driving privileges. An intermediate driver's license shall expire when the licensee is eligible and receives a full driver's license as prescribed in subdivision (1) of this section.

6. No person upon reaching the age of eighteen years whose intermediate driver's license and driving privilege is denied, suspended, canceled or revoked in this state or any other state, for any reason may apply for a full driver's license until such license or driving privilege is fully reinstated. Any such person whose intermediate driver's license has been revoked pursuant to the provisions of sections 302.010 to 302.540 shall, upon receipt of reinstatement of the revocation from the director, pass the complete driver examination, apply for a new license, and pay the proper fee before again operating a motor vehicle upon the highways of this state.

7. A person shall be exempt from the intermediate licensing requirements if the person has reached the age of eighteen years and meets all other licensing requirements.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

390.136. MOTOR CARRIERS, REGULATORY LICENSE REQUIRED — ANNUAL, ISSUED WHEN — EMERGENCY OR TEMPORARY LICENSE FOR SEVENTY-TWO HOURS — FEES — OUT-OF-STATE AGREEMENTS, EFFECT — VIOLATION, PENALTY. — 1. No motor carrier, except as provided in section 390.030, shall operate any motor vehicle unless such vehicle shall be accompanied by an annual or seventy-two-hour, **regulatory** license issued by the [motor carrier and railroad safety division of the department of economic development] **state highways and transportation commission**; provided that when a motor carrier uses a truck-tractor for pulling trailers or semitrailers, such motor carrier may elect to license either the truck-tractor, trailer or semitrailer. The fee for each such [annual] **regulatory** license shall be ten dollars **per year** and shall be due and payable [on or before the last day of February of each calendar year] **as provided in this section.** Such [annual] license shall be issued [after October first of each year] in such form and shall be used pursuant to such reasonable rules and regulations as [the division of motor carrier and railroad safety may, by general order or otherwise, prescribe] **may be prescribed by the commission.**

2. Any [annual] **regulatory** license issued to a motor carrier for use in driveway operations, as defined in this section, shall be issued to such motor carrier without reference to any particular vehicle and may be used interchangeably by the holder thereof on any motor

vehicle or combinations thereof moving in driveway operations under such carrier's **property carrier registration**, certificate, or permit.

3. In case of emergency, temporary, unusual or a peak demand for transportation, additional vehicles as described in subsection 1 of this section may be operated upon issuance [by the division] of a seventy-two-hour license for each vehicle so operated. The license fee for each such additional vehicle shall be the sum of five dollars for each seventy-two consecutive hours, or any portion thereof. Such licenses shall be issued, **renewed, and staggered** in such form and shall be used pursuant to such reasonable rules and regulations as the [division may, by general order or otherwise,] **commission may** prescribe. No such additional vehicle which has been licensed pursuant to this subsection shall be operated without being accompanied by such license.

4. The [division, upon] **commission shall collect the applicable license fee prior to the** issuance of such license or licenses provided for in this section, **and** shall [notify the director of revenue, who shall] receive the license fee or fees and immediately deposit the same [with the state treasurer in] **to the credit of the state [highway] highways and transportation** department fund except **as otherwise provided in section 622.095, RSMo, or** when an agreement has been negotiated with another jurisdiction whereby prepayment is not required. In such cases, **section 622.095, RSMo, if applicable, or the [term] terms** of the agreement shall prevail.

5. Any person operating as a motor carrier who violates or fails to comply with any of the provisions of this section shall be adjudged guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

6. The [provisions of this section shall become effective for the 1989 registration year, and the] regulatory **license fee provided in this section** may be paid at any state weigh station.

7. **The commission shall prescribe, for every regulatory license issued pursuant to this section, an effective date and an expiration date. Notwithstanding any provision of law to the contrary, the commission may stagger the issuance of licenses pursuant to this section to begin at quarterly intervals during any calendar year. Not later than the expiration date of the current license, or as otherwise prescribed, each motor carrier shall pay the regulatory license fee for each vehicle that the carrier will operate during the next yearly period. The commission may issue partial or over one-year licenses during the transition from an annual license, to accommodate motor carriers in adding vehicles to their operations during the year, to coordinate the dates for a single carrier's licensing of multiple licenses, or for such other reasons as approved by the commission.**

622.095. DIVISION AUTHORIZED TO CONTRACT WITH OTHER JURISDICTIONS — UNIFORM ADMINISTRATION OF CERTAIN INTERSTATE VEHICLES — POWERS — BASE STATE REGISTRATION FUND ESTABLISHED — PROPERLY REGISTERED VEHICLE OPERATION ALLOWED — FEES MAY BE STAGGERED AND PRORATED. — 1. In addition to its other powers, the [division of motor carrier and railroad safety] **state highways and transportation commission** may negotiate and enter into fair and equitable cooperative agreements or contracts with other states, the District of Columbia, territories and possessions of the United States, foreign countries, and any of their officials, agents or instrumentalities, to promote cooperative action and mutual assistance between the participating jurisdictions with regard to the uniform administration and registration, through a single base jurisdiction for each registrant, of [interstate commerce commission] **federal motor carrier safety administration** operating authority and exempt operations by motor vehicles operated in interstate commerce. Notwithstanding any other provision of law to the contrary, and in accordance with the provisions of such agreements or contracts between participating jurisdictions, the [division] **commission** may:

(1) Delegate to other participating jurisdictions the authority and responsibility to collect and pay over [to the division] statutory registration, administration or license fees; to receive, approve and maintain the required proof of public liability insurance coverage; to receive, process, maintain and transmit registration information and documentation; to issue evidence of proper

registration in lieu of [interstate] **certificates, licenses, or permits** [under section 390.071, RSMo; to] **which the commission may** issue motor vehicle licenses or identifiers in lieu of [annual] **regulatory** licenses under section 390.136, RSMo; and to suspend or revoke any **credential**, approval, registration, **certificate, permit**, license or identifier referred to in this section, as agents on behalf of the [division] commission with regard to motor vehicle operations by persons having a base jurisdiction other than this state;

(2) Assume the authority and responsibility on behalf of other jurisdictions participating in such agreements or contracts to collect and direct the department of revenue to pay over to the appropriate jurisdictions statutory registration, administration or license fees, and to perform all other activities described in subdivision (1) of this subsection, on its own behalf or as an agent on behalf of other participating jurisdictions, with regard to motor vehicle operations in interstate commerce by persons having this state as their base jurisdiction;

(3) Establish or modify dates for the payment of fees and the issuance of annual motor vehicle licenses or identifiers in conformity with such agreements or contracts, notwithstanding any provisions of section 390.136, RSMo, to the contrary; and

(4) Modify, cancel or terminate any of the agreements or contracts.

2. Notwithstanding the provisions of section 390.136, RSMo, statutory registration, administration or license fees collected by the [division] **commission** on behalf of other jurisdictions under such agreements or contracts are hereby designated as "nonstate funds" within the meaning of section 15, article IV, Constitution of Missouri, and shall be immediately transmitted to the department of revenue of the state for deposit to the credit of a special fund which is hereby created and designated as the "Base State Registration Fund". The [division] **commission** shall [not less frequently than once each month] direct the payment of, and the director of revenue shall pay, the fees so collected to the appropriate other jurisdictions. All income derived from the investment of the base state registration fund by the director of revenue shall be credited to the [highway] **state highways and transportation** department fund.

3. "Base jurisdiction", as used in this section, means the jurisdiction participating in such agreements or contracts where the registrant has its principal place of business.

4. Every person who has properly registered his **or her** interstate [commerce commission] operating authority or exempt operations with his **or her** base jurisdiction and maintains such registration in force in accordance with such agreements or contracts is authorized to operate in interstate commerce within this state any motor vehicle which is accompanied by a valid annual license or identifier issued by his base jurisdiction in accordance with such agreements or contracts, notwithstanding any provision of section 390.071, 390.126 or 390.136, RSMo, or rules of the [division] **commission** to the contrary.

5. Notwithstanding any provision of law to the contrary, the commission may stagger and prorate the payment and collection of license fees pursuant to this section for the purposes of:

(1) **Coordinating the issuance of regulatory licenses under this section with the issuance of other motor carrier credentials; and**

(2) **Complying with any federal law or regulation.**

[390.340. ANNUAL LICENSES REQUIRED BY 390.136, PERIOD OF EFFECTIVENESS, FEES, WHEN DUE. — Notwithstanding any provisions of section 390.136, to the contrary, beginning with the first calendar year after August 28, 1996, the annual licenses required pursuant to section 390.136, with reference to motor vehicles operated by motor carriers shall be effective from January first to December thirty-first of the year for which they are issued, and the annual license fees for each calendar year shall be due and payable on or before the thirty-first day of December in the year immediately preceding the year for which they are issued. The division shall begin issuing the annual licenses on August first of each year for the succeeding calendar year, but this shall not preclude the division from continuing to issue the current year's licenses as needed for the remainder of the current calendar year.]

[622.618. MOTOR CARRIERS, LICENSE REQUIRED — ANNUAL, ISSUED WHEN — ANNUAL LICENSE FEES. — Notwithstanding any provisions of section 390.136, RSMo, to the contrary, beginning with the first calendar year after August 28, 1996, the annual licenses required pursuant to section 390.136, RSMo, with reference to motor vehicles operated by motor carriers shall be effective from January first to December thirty-first of the year for which they are issued, and the annual license fees for each calendar year shall be due and payable on or before the thirty-first day of December in the year immediately preceding the year for which they are issued. The division shall begin issuing the annual licenses on August first of each year for the succeeding calendar year, but this shall not preclude the division from continuing to issue the current year's licenses as needed for the remainder of the current calendar year.]

Approved June 25, 2004

HB 938 [SCS HB 938]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the requirements for annuity contracts.

AN ACT to repeal section 376.671, RSMo, and to enact in lieu thereof two new sections relating to annuity contracts, with an expiration date.

SECTION

- A. Enacting clause.
- 376.669. Annuity contract requirements — paid-up annuity benefits, how calculated — cash surrender benefits, how calculated — applicable, when.
- 376.671. Provisions which shall be contained in annuity contracts — expiration date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 376.671, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 376.669 and 376.671, to read as follows:

376.669. ANNUITY CONTRACT REQUIREMENTS — PAID-UP ANNUITY BENEFITS, HOW CALCULATED — CASH SURRENDER BENEFITS, HOW CALCULATED — APPLICABLE, WHEN.

— **1.** This section shall not apply to any reinsurance, group annuity purchased under a retirement plan, or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code of 1986, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the effective date of this section as defined in subsection 11 of this section, no contract of annuity, except as stated in subsection 1 of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7 and 9 of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7 and 9 of this section. The company may reserve the right to defer the payment of the cash surrender benefit for a period not to exceed six months after demand therefor with surrender of the contract after making written request and receiving written approval of the director. The request shall address the necessity and equitability to all policyholders of the deferral;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of the benefits; and

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which the benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, a deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from prior considerations paid would be less than twenty dollars monthly, the company may at its option terminate the contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis on the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by this payment shall be relieved of any further obligation under the contract.

3. The minimum values as specified in subsections 4, 5, 6, 7 and 9 of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in subdivision (3) of this subsection of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of paragraphs (a) to (d) below:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subdivision (3) of this subsection; and

(b) An annual contract charge of fifty dollars, accumulated at rates of interest as indicated in subdivision (3) of this subsection;

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in subdivision (3) of this subsection; and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during that contract year.

(3) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date under paragraph (d) of this subdivision;

(b) Reduced by one hundred twenty-five basis points;

(c) Where the resulting interest rate is not less than one percent; and

(d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(4) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in paragraph (b) of subdivision (3) of this subsection by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The director may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the director, the director may disallow or limit the additional reduction.

(5) The director may adopt rules to implement the provisions of subdivision (4) of this subsection and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the director determines adjustments are justified.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts that provide cash surrender benefits, the cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on

the basis of the interest rate specified in the contract for accumulating the net considerations to determine maturity value, and increased by any additional amounts credited by the company to the contract. For contracts that do not provide any death benefits prior to the commencement of any annuity payments, present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6 of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. A contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For a contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7 and 9 of this section, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. Notwithstanding the provisions of section 376.671, after the effective date of this section, a company may elect to apply the provisions of this section in lieu of section 376.671 to annuity contracts on a contract form-by-contract form basis before July 1, 2006. In all other instances, this section shall become operative with respect to annuity contracts issued by the company after July 1, 2006.

376.671. PROVISIONS WHICH SHALL BE CONTAINED IN ANNUITY CONTRACTS — EXPIRATION DATE. — 1. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any

contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the operative date of this section as defined in subsection 11 **of this section**, no contract of annuity, except as stated in subsection 1 **of this section**, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9 **of this section**;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9 **of this section**. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 **of this section** of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payment shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(b) The amount of any indebtedness to the company on the contract, including interest due and accrued and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first

contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent;

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years;

(b) The annual contract charge shall be the lesser of thirty dollars or ten percent of the gross annual consideration;

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent, and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars;

(4) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2002, and before July 1, [2004] **2006**, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated, for the purpose of determining minimum nonforfeiture amounts, shall be one and one-half percent per annum.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit.

However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6 of **this section**, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity date, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9 of **this section**, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. After September 28, 1979, any company may file with the director a written notice of its election to comply with the provisions of this section after a specified date before September 28, 1981. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be September 28, 1981.

12. The provisions of this section shall expire on July 1, 2006.

Approved June 21, 2004

HB 947 [HCS HB 947]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Cameron, Boonville, Sikeston, and Kirksville to require removal of weeds or trash on private property.

AN ACT to repeal section 71.285, RSMo, and to enact in lieu thereof one new section relating to nuisances.

SECTION

A. Enacting clause.

- 71.285. Weeds or trash, city may cause removal and issue tax bill, when — certain cities may order abatement and remove weeds or trash, when — section not to apply to certain cities, when — city official may order abatement in certain cities — removal of weeds or trash, costs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 71.285, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 71.285, to read as follows:

71.285. WEEDS OR TRASH, CITY MAY CAUSE REMOVAL AND ISSUE TAX BILL, WHEN — CERTAIN CITIES MAY ORDER ABATEMENT AND REMOVE WEEDS OR TRASH, WHEN — SECTION NOT TO APPLY TO CERTAIN CITIES, WHEN — CITY OFFICIAL MAY ORDER ABATEMENT IN CERTAIN CITIES — REMOVAL OF WEEDS OR TRASH, COSTS. — 1. Whenever weeds or trash, in violation of an ordinance, are allowed to grow or accumulate, as the case may be, on any part of any lot or ground within any city, town or village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable. The marshal or other city official as designated in such ordinance shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or [his or her or their] **the owner's** agents, or by posting such notice on the premises; thereupon, the marshal or other designated city official may declare the weeds or trash to be a nuisance and order the same to be abated within five days; and in case the weeds or trash are not removed within the five days, the marshal or other designated city official shall have the weeds or trash removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum. Notwithstanding the time limitations of this section, any city, town or village located in a county of the first classification may hold the hearing provided in this section four days after notice is sent or posted, and may order at the hearing that the weeds or trash shall be abated within five business days after the hearing and if such weeds or trash are not removed within five business days after the hearing, the order shall allow the city to immediately remove the weeds or trash pursuant to this section. Except for lands owned by a public utility, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation, the provisions of this subsection shall not apply to any city with a population of at least seventy thousand inhabitants which is located in a county of the first classification with a population of less than one hundred thousand inhabitants which adjoins a county with a population of less than one hundred thousand inhabitants that contains part of a city with a population of three hundred fifty thousand or more inhabitants, any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, or any city, town or village located within a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, or any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, or the City of St. Louis, where such city, town or village establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, or in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, the marshal or other designated city official may order that the weeds or trash be abated within five business days after notice is sent to or posted on the property. In case the weeds or trash are not removed within the five days, the marshal or other designated city official may have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section.

3. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants [or], in any third class city with a population of at least ten thousand inhabitants but less than fifteen thousand inhabitants with the greater part of the population located in a county of the first classification, **in any city of the third classification with more than sixteen thousand nine hundred but less than seventeen thousand inhabitants, or in any city of the third classification with more than eight thousand but fewer than nine thousand inhabitants**, the marshal or other designated official may, without further notification, have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section. The provisions of subsection 2 and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

4. The provisions of this section shall not apply to any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification where such city establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

Approved June 24, 2004

HB 950 [HCS HB 950 & 948]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the classification of counties.

AN ACT to repeal sections 48.020 and 48.030, RSMo, and to enact in lieu thereof two new sections relating to classifications of counties.

SECTION

- A. Enacting clause.
- 48.020. Classification of counties into four classes for purpose of organization and power — classification, how determined.
- 48.030. Change in classification, when effective.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 48.020 and 48.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 48.020 and 48.030, to read as follows:

48.020. CLASSIFICATION OF COUNTIES INTO FOUR CLASSES FOR PURPOSE OF ORGANIZATION AND POWER — CLASSIFICATION, HOW DETERMINED. — All counties of this state are hereby classified, for the purpose of establishing organization and powers in accordance with the provisions of section 8, article VI, Constitution of Missouri, into four classifications determined as follows:

Classification 1. All counties having an assessed valuation of [four hundred fifty] **six hundred** million dollars and over shall automatically be in the first classification after that county has maintained such valuation for the time period required by section 48.030; however, any county of the second classification which, on August 13, 1988, has had an assessed valuation of at least four hundred million dollars for at least one year may, by resolution of the governing body of the county, elect to be classified as a county of the first classification after it has maintained such valuation for the period of time required by the provisions of section 48.030.

Classification 2. All counties having an assessed valuation of [three] **four** hundred **fifty** million dollars and less than the assessed valuation necessary for that county to be in the first classification shall automatically be in the second classification after that county has maintained such valuation for the time period required by section 48.030.

Classification 3. All counties having an assessed valuation of less than the assessed valuation necessary for that county to be in the second classification shall automatically be in the third classification.

Classification 4. All counties which have attained the second classification prior to August 13, 1988, and which would otherwise return to the third classification after August 13, 1988, because of changes in assessed valuation shall remain a county in the second classification and shall operate under the laws of this state applying to the second classification.

48.030. CHANGE IN CLASSIFICATION, WHEN EFFECTIVE. — 1. Other than as otherwise provided for in this section, after September 28, 1979, no county shall move from a lower class to a higher class or from a higher class to a lower class until the assessed valuation of the county is such as to place it in the other class for five successive years[; but,].

2. No second class county shall become a third class county until the assessed valuation of the county is such as to place it in the third class for at least five successive years and until the assessed valuations for calendar year 1985 have been entered on the tax rolls of each county in accordance with subsections 6 and 7 of section 137.115, RSMo.

3. Notwithstanding the provisions of subsection 1 of this section, a county may become a first class county at any time after the assessed valuation of the county is such as to be a first class county and the governing body of the county elects to change classifications. The effective date of such change of classification shall be in accordance with the provisions of this section.

4. The change from one classification to another shall become effective at the beginning of the county fiscal year following the next general election after the certification by the state equalizing agency for the required number of successive years that the county possesses an assessed valuation placing it in another class. If a general election is held between the date of the certification and the end of the current fiscal year, the change of classification shall not become effective until the beginning of the county fiscal year following the next succeeding general election.

Approved March 15, 2004

HB 959 [CCS#2 SCS HCS HB 959]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Higher Education Deposit Program, revises other laws relating to banking, and revises the crime of identity theft.

AN ACT To repeal sections 33.103, 166.415, 166.435, 408.032, 408.140, 408.190, 408.232, 443.130, 506.290, 513.430, 513.440, and 541.033, RSMo, and sections 570.223 and 570.224 as truly agreed to and finally passed by the second regular session of the ninety-second general assembly in senate committee substitute for house bill no. 916, and to enact in lieu thereof thirty-four new sections relating to banking, with penalty provisions.

SECTION

- A. Enacting clause.
 - 33.103. Deductions authorized to be made from state employees' compensation — debts owed to state, child support payments, tuition programs, cafeteria plan, requirements.
 - 166.415. Missouri higher education savings program, created, board, members, proxies, powers and duties, investments.
 - 166.435. State tax exemption.
 - 166.500. Citation of law.
 - 166.505. Program established as alternative to Missouri higher education savings program.
 - 166.510. Definitions.
 - 166.515. Program created, Missouri higher education savings program board to administer, powers and duties — investment of funds.
 - 166.520. Deposit program participation agreements, terms and conditions — contribution limits — minimum holding time for contributions.
 - 166.525. Prompt investment of moneys paid by participation agreements, use of moneys.
 - 166.530. Cancellation of agreements, penalty.
 - 166.540. Assets used for program purposes only.
 - 166.545. Rulemaking authority.
 - 166.550. Review of program by state auditor, when.
 - 166.555. Program moneys not part of total state revenues.
 - 166.556. Confidentiality requirements.
 - 166.557. Sunset provision.
 - 362.191. State employee compensation deductions authorized for investment by office of administration.
 - 369.176. State employee compensation deductions authorized for investment by office of administration.
 - 408.032. Recording fees.
 - 408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
 - 408.178. Deferral of monthly loan payments, fee authorized for certain loans.
 - 408.190. Certain loans exempt from sections 408.120 to 408.180, and 408.200.
 - 408.232. Rates and terms.
 - 408.480. Changes to certain sections remedial only.
 - 427.225. Name of financial institution, deceptive use of, when — cause of action may be brought by whom — financial institution defined.
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- 432.047. Credit agreements, actions not to be maintained, when — credit agreement defined.
- 443.130. Liability for failing to satisfy — demand by certified mail required.
- 506.290. Venue for actions.
- 513.430. Property exempt from attachment — benefits from certain employee plans, exception — bankruptcy proceeding, fraudulent transfers, exception — construction of section.
- 513.440. Other property exempt — provisions — exceptions.
- 541.033. Offenses, where prosecuted.
- 570.223. Identity theft — penalty — restitution — other civil remedies available — exempted activities.
- 570.224. Trafficking in stolen identities, crime of — possession of documents, exemptions — violation, penalty.
 - 1. Board of fund commissioners and board of public buildings, additional authority.
- 570.223. Identity theft — penalty — restitution — other civil remedies available — exempted activities.
- 570.224. Trafficking in stolen identities, crime of — possession of documents, exemptions — violation, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 33.103, 166.415, 166.435, 408.032, 408.140, 408.190, 408.232, 443.130, 506.290, 513.430, 513.440, and 541.033, RSMo, and sections 570.223 and 570.224 as truly agreed to and finally passed by the second regular session of the ninety-second general assembly in senate committee substitute for house bill no. 916, are repealed and thirty-four new sections enacted in lieu thereof, to be known as sections 33.103, 166.415, 166.435, 166.500, 166.505, 166.510, 166.515, 166.520, 166.525, 166.530, 166.540, 166.545, 166.550, 166.555, 166.556, 166.557, 362.191, 369.176, 408.032, 408.140, 408.178, 408.190, 408.232, 408.480, 427.225, 432.047, 443.130, 506.290, 513.430, 513.440, 541.033, 570.223, 570.224, and 1, to read as follows:

33.103. DEDUCTIONS AUTHORIZED TO BE MADE FROM STATE EMPLOYEES' COMPENSATION — DEBTS OWED TO STATE, CHILD SUPPORT PAYMENTS, TUITION PROGRAMS, CAFETERIA PLAN, REQUIREMENTS. — 1. Whenever the employees of any state department, division or agency establish any voluntary retirement plan, or participate in any group hospital service plan, group life insurance plan, medical service plan or other such plan, or if they are members of an employee collective bargaining organization, or if they participate in a group plan for uniform rental, the commissioner of administration may deduct from such employees' compensation warrants the amount necessary for each employee's participation in the plan or collective bargaining dues, provided that such dues deductions shall be made only from those individuals agreeing to such deductions. Before such deductions are made, the person in charge of the department, division or agency shall file with the commissioner of administration an authorization showing the names of participating employees, the amount to be deducted from each such employee's compensation, and the agent authorized to receive the deducted amounts. The amount deducted shall be paid to the authorized agent in the amount of the total deductions by a warrant issued as provided by law.

2. The commissioner of administration may, in the same manner, deduct from any state employee's compensation warrant:

(1) Any amount authorized by the employee for the purchase of shares in a state employees' credit union in Missouri;

(2) Any amount authorized by the employee for contribution to a fund resulting from a united, joint community-wide solicitation or to a fund resulting from a nationwide solicitation by charities rendering services or otherwise fulfilling charitable purposes if the fund is administered in a manner requiring public accountability and public participation in policy decisions;

(3) Any amount authorized by the employee for the payment of dues in an employee association;

(4) Any amount determined to be owed by the employee to the state in accordance with guidelines established by the commissioner of administration which shall include notice to the employee and an appeal process;

(5) Any amount voluntarily assigned by the employee for payment of child support obligations determined pursuant to chapter 452 or 454, RSMo; [and]

(6) Any amount authorized by the employee for contributions to any "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code of 1986, as amended, sponsored by the state of Missouri; **and**

(7) Any amount authorized by the employee for the investment in deposits in a state employee's bank or savings and loan association in this state.

3. The commissioner of administration may establish a cafeteria plan in accordance with Section 125 of Title 26 United States Code for state employees. The commissioner of administration must file a written plan document to be filed in accordance with chapter 536, RSMo. Employees must be furnished with a summary plan description one hundred twenty days prior to the effective date of the plan. In connection with such plans, the commissioner may:

(1) Include as an option in the plan any employee benefit, otherwise available to state employees, administered by a statutorily created retirement system;

(2) Provide and administer, or select companies on the basis of competitive bids or proposals to provide or administer, any group insurance, or other plan which may be included as part of a cafeteria plan, provided such plan is not duplicative of any other plan, otherwise available to state employees, administered by a statutorily created retirement system; and

(3) Reduce each participating employee's compensation warrant by the amount necessary for each employee's participation in the cafeteria plan, provided that such salary reduction shall be made only with respect to those individuals agreeing to such reduction. No such reduction in salary for the purpose of participation in a cafeteria plan shall have the effect of reducing the compensation amount used in calculating the state employee's retirement benefit under a statutorily created retirement system or reducing the compensation amount used in calculating the state employee's compensation or wages for purposes of any workers' compensation claim governed by chapter 287, RSMo.

4. Employees may authorize deductions as provided in this section in writing or by electronic enrollment.

166.415. MISSOURI HIGHER EDUCATION SAVINGS PROGRAM, CREATED, BOARD, MEMBERS, PROXIES, POWERS AND DUTIES, INVESTMENTS. — 1. There is hereby created the "Missouri Higher Education Savings Program". The program shall be administered by the Missouri higher education savings program board which shall consist of the Missouri state treasurer who shall serve as chairman, the commissioner of the department of higher education, the commissioner of the office of administration, the director of the department of economic development [and], two persons having demonstrable experience and knowledge in the areas of finance or the investment and management of public funds, one of whom is selected by the president pro tem of the senate and one of whom is selected by the speaker of the house of representatives[.], **and one person having demonstrable experience and knowledge in the area of banking or deposit rate determination and placement of depository certificates of deposit or other deposit investments. Such member shall be appointed by the governor with the advice and consent of the senate.** The [two] three appointed members shall be appointed to serve for terms of four years from the date of appointment, or until their successors shall have been appointed and shall have qualified. The members of the board shall be subject to the conflict of interest provisions of section 105.452, RSMo. Any member who violates the conflict of interest provisions shall be removed from the board. In order to establish and administer the savings program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the Missouri higher education savings program and, notwithstanding any provision of sections 166.400 to 166.455 to the contrary, the savings programs and services consistent with the purposes and objectives of sections 166.400 to 166.455;

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement sections 166.400 to 166.455, to permit the savings program to qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code and to ensure the savings program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution for investment services, and their families, including special programs and materials to inform families with young children regarding methods for financing education and training beyond high school;

(4) Enter into agreements with any financial institution, the state or any federal or other agency or entity as required for the operation of the savings program pursuant to sections 166.400 to 166.455;

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the savings program;

(7) Invest the funds received from participants in appropriate investment instruments to achieve long-term total return through a combination of capital appreciation and current income;

(8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 166.400 to 166.455 and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the savings program;

(11) Effectuate and carry out all the powers granted by sections 166.400 to 166.455, and have all other powers necessary to carry out and effectuate the purposes, objectives and provisions of sections 166.400 to 166.455 pertaining to the savings program; and

(12) Procure insurance, guarantees or other protections against any loss in connection with the assets or activities of the savings program.

2. Any member of the board may designate a proxy for that member who will enjoy the full voting privileges of that member for the one meeting so specified by that member. No more than three proxies shall be considered members of the board for the purpose of establishing a quorum.

3. Four members of the board shall constitute a quorum. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. No action shall be taken by the board except upon the affirmative vote of a majority of the members present.

4. The board shall meet within the state of Missouri at the time set at a previously scheduled meeting or by the request of any four members of the board. Notice of the meeting shall be delivered to all other trustees in person or by depositing notice in a United States post office in a properly stamped and addressed envelope not less than six days prior to the date fixed for the meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

5. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688, RSMo. The board may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment

counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

6. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has a substantial interest, nor shall any member of the board profit directly or indirectly from any such investment.

7. No trustee or employee of the savings program shall receive any gain or profit from any funds or transaction of the savings program. Any trustee, employee or agent of the savings program accepting any gratuity or compensation for the purpose of influencing such trustee's, employee's or agent's action with respect to the investment or management of the funds of the savings program shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery.

166.435. STATE TAX EXEMPTION. — 1. **Notwithstanding any law to the contrary**, the assets of the savings program held by the board and the assets of any [similar savings program] **deposit program authorized in section 166.500 and** qualified pursuant to Section 529 of the Internal Revenue Code and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the [fund by any participant or beneficiary] **savings program or deposit program** shall not be subject to state income tax **imposed pursuant to chapter 143, RSMo**, and shall be eligible for any benefits provided in accordance with Section 529 of the Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the savings program established pursuant to sections 166.400 to 166.455, [the provisions of this section] **and the deposit program established pursuant to section 166.500 to 166.566**, and Section 529 of the Internal Revenue Code, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions **made to the savings program held by the board and the deposit program** up to and including eight thousand dollars [made to the savings program] **for the participant taxpayer**, shall be subtracted [from] **in determining** Missouri adjusted gross income pursuant to section 143.121, RSMo.

2. If any deductible contributions to or earnings from any [savings account] **such program referred to in this section** are distributed and not used to pay qualified higher education expenses or are not held for the minimum length of time established by the [board] **appropriate Missouri state authority**, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, 1999, **and the provisions of this section with regard to sections 166.500 to 166.556 shall apply to tax years beginning on or after January 1, 2004.**

166.500. CITATION OF LAW. — Sections 166.500 to 166.556 shall be known and may be cited as the "Missouri Higher Education Deposit Program".

166.505. PROGRAM ESTABLISHED AS ALTERNATIVE TO MISSOURI HIGHER EDUCATION SAVINGS PROGRAM. — **Notwithstanding the provisions of sections 166.400 to 166.456 to the contrary, the higher education deposit program is established as a nonexclusive alternative**

to the Missouri higher education savings program, and any participant may elect to participate in both programs subject to aggregate Missouri program limitations.

166.510. DEFINITIONS. — As used in sections 166.500 to 166.556, except where the context clearly requires another interpretation, the following terms mean:

(1) "Beneficiary", any individual designated by a participation agreement to benefit from payments for qualified higher education expenses at an eligible educational institution;

(2) "Benefits", the payment of qualified higher education expenses on behalf of a beneficiary from a deposit account during the beneficiary's attendance at an eligible educational institution;

(3) "Board", the Missouri higher education savings program board established in section 166.415;

(4) "Eligible educational institution", an institution of postsecondary education as defined in Section 529(e)(5) of the Internal Revenue Code;

(5) "Financial institution", a depository institution and any intermediary that brokers certificates of deposits;

(6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

(7) "Missouri higher education deposit program" or "deposit program", the program created pursuant to sections 166.500 to 166.556;

(8) "Participant", a person who has entered into a participation agreement pursuant to sections 166.500 to 166.556 for the advance payment of qualified higher education expenses on behalf of a beneficiary;

(9) "Participation agreement", an agreement between a participant and the board pursuant to and conforming with the requirements of sections 166.500 to 166.556;

(10) "Qualified higher education expenses", the qualified costs of tuition and fees and other expenses for attendance at an eligible educational institution, as defined in Section 529(e)(3) of the Internal Revenue Code of 1986, as amended.

166.515. PROGRAM CREATED, MISSOURI HIGHER EDUCATION SAVINGS PROGRAM BOARD TO ADMINISTER, POWERS AND DUTIES — INVESTMENT OF FUNDS. — 1. There is hereby created the "Missouri Higher Education Deposit Program". The program shall be administered by the Missouri higher education savings program board.

2. In order to establish and administer the deposit program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the Missouri higher education deposit program and, notwithstanding any provision of sections 166.500 to 166.556 to the contrary, the deposit programs and services consistent with the purposes and objectives of sections 166.500 to 166.556;

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement sections 166.500 to 166.556, to permit the deposit program to qualify as a qualified state tuition program pursuant to Section 529 of the Internal Revenue Code and to ensure the deposit program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution or other entities for deposit educational services, and their families, including special programs and materials to inform families with children of various ages regarding methods for financing education and training beyond high school;

(4) Enter into an agreement with any financial institution, entity, or business clearinghouse for the operation of the deposit program pursuant to sections 166.500 to 166.556; providing however, that such institution, entity, or clearinghouse shall be a private for-profit or not-for-profit entity and not a government agency. No more than one

board member may have a direct interest in such institution, entity, or clearinghouse. Such institution, entity, or clearinghouse shall implement the board's policies and administer the program for the board and with electing depository institutions and others;

- (5) Enter into participation agreements with participants;
- (6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the deposit program;
- (7) Invest the funds received from participants in appropriate investment instruments to be held by depository institutions or directly deposit such funds in depository institutions as provided by the board and elected by the participants;
- (8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to participation agreements;
- (9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 166.500 to 166.556 and the rules adopted by the board;
- (10) Make provision for the payment of costs of administration and operation of the deposit program;
- (11) Effectuate and carry out all the powers granted by sections 166.500 to 166.556, and have all other powers necessary to carry out and effectuate the purposes, objectives, and provisions of sections 166.500 to 166.556 pertaining to the deposit program;
- (12) Procure insurance, guarantees, or other protections against any loss in connection with the assets or activities of the deposit program, as the members in their best judgment deem necessary;
- (13) To both adopt and implement various methods of transferring money by electronic means to efficiently transfer funds to depository institutions for deposit, and in addition or in the alternative, to allow funds to be transferred by agent agreements, assignment, or otherwise, provided such transfer occurs within two business days;
- (14) To both adopt and implement methods and policies designed to obtain the maximum insurance of such funds for each participant permitted and provided for by the Federal Deposit Insurance Corporation, or any other federal agency insuring deposits, and taking into consideration the law and regulation promulgated by such federal agencies for deposit insurance.

3. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, as provided in section 105.688, RSMo, as a means to hold funds until they are placed in a Missouri depository institution as a deposit. The board may delegate to duly appointed representatives of financial institutions authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such representatives the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring, or disposing of any or all of the investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys, however, such investments shall be limited to certificates of deposit and other deposits in federally insured depository institutions. Such representatives shall be registered as "qualified student deposit advisors on section 529 plans" with the board and such board shall, by rule, develop and administer qualification tests from time to time to provide representatives the opportunity to qualify for this program. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care, and skill which

a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

4. No board member or employee of the deposit program shall personally receive any gain or profit from any funds or transaction of the deposit program as a result of his or her membership of the board. Any board member, employee, or agent of the deposit program accepting any gratuity or compensation for the purpose of influencing such board member's, employee's, or agent's action with respect to choice of intermediary, including any financial institution, entity, or clearinghouse, for the funds of the deposit program shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery. However, a board member who is regularly employed directly or indirectly by a financial institution may state that institution's interest and absent himself or herself from voting.

5. Depository institutions originating the deposit program shall be the agent of the board and offer terms for certificates of deposit and other deposits in such program as permitted by the board, subject to a uniform interest rate disclosure as defined in federal regulations of the Board of Governors of the Federal Reserve System, specifically Federal Reserve Regulation DD, as amended from time to time. The board shall establish various deposit opportunities based on amounts deposited and length of time held that are uniformly available to all depository institutions that elect to participate in the program, and the various categories of fixed or variable rates shall be the only interest rates available under this program. A depository institution that originates the deposit as agent for the board and participates in the program shall receive back and continue to hold the certificate of deposit or other deposit, provided such depository institution continues to comply with requirements and regulations prescribed by the board. Such deposit and certificate of deposit shall be titled in the name of the clearing entity for the benefit of the participant, and shall be insured as permitted by any agency of the federal government that insures deposits in depository institutions. Any depository institution or intermediary that fails to comply with these provisions shall forfeit its right to participate in this program; provided however, the board shall be the sole and exclusive judge of compliance except as otherwise provided by provisions in Section 529 of the Internal Revenue Code and the Internal Revenue Service enforcement of such section.

166.520. DEPOSIT PROGRAM PARTICIPATION AGREEMENTS, TERMS AND CONDITIONS — CONTRIBUTION LIMITS — MINIMUM HOLDING TIME FOR CONTRIBUTIONS. — 1. The board may enter into deposit program participation agreements with participants on behalf of beneficiaries pursuant to the provisions of sections 166.500 to 166.556, including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the deposit program in which the participant makes contributions;

(2) A participation agreement shall specify the method for calculating the return on the contribution made by the participant as otherwise provided in sections 166.500 to 166.556;

(3) The execution of a participation agreement by the board shall not guarantee that the beneficiary named in any participation agreement will be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted or will graduate from an eligible educational institution;

(4) A participation agreement shall disclose to participants the risk associated with depositing moneys with the board, including information on federal insured deposit availability and coverage and penalties for withdrawal before the deposit has matured;

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(6) A participation agreement shall clearly and prominently disclose to participants the existence of any fee or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount which may be contributed annually by a participant with respect to a beneficiary.

3. The board shall establish a total contribution limit for deposit accounts established under the deposit program with respect to a beneficiary to permit the deposit program to qualify as a qualified state tuition program pursuant to Section 529 of the Internal Revenue Code. No contribution may be made to a deposit account for a beneficiary if it would cause the balance of all deposit accounts of the beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a beneficiary from exceeding what is necessary to provide for the qualified higher education expenses of the beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the deposit program to qualify pursuant to section 166.435. Any contributions or earnings that are withdrawn or distributed from a deposit account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to section 166.530.

166.525. PROMPT INVESTMENT OF MONEYS PAID BY PARTICIPATION AGREEMENTS, USE OF MONEYS. — All money paid by a participant in connection with participation agreements shall be deposited as received and shall be promptly invested by the board or may be directly deposited by the board's agents. Contributions and earnings thereon accumulated on behalf of participants in the deposit program may be used, as provided in the participation agreement, for qualified higher education expenses.

166.530. CANCELLATION OF AGREEMENTS, PENALTY. — Any participant may cancel a participation agreement at will. The board shall impose a penalty equal to or greater than ten percent of the earnings of an account for any distribution that is not:

- (1) Used exclusively for qualified higher education expenses of the designated beneficiary;
- (2) Made because of death or disability of the designated beneficiary;
- (3) Made because of the receipt of scholarship by the designated beneficiary;
- (4) A rollover distribution, as defined in Section 529(c)(3)(C)(i) of the Internal Revenue Code; or
- (5) Held in the fund for the minimum length of time established by the board.

166.540. ASSETS USED FOR PROGRAM PURPOSES ONLY. — The assets of the deposit program shall at all times be preserved, invested, and expended only for the purposes set forth in this section and in accordance with the participation agreements, and no property rights therein shall exist in favor of the state.

166.545. RULEMAKING AUTHORITY. — Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated pursuant to sections 166.500 to 166.556 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to August 28, 2004, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 2004, if it fully complied with the provisions of chapter 536, RSMo. Sections 166.500 to 166.556 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to

disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

166.550. REVIEW OF PROGRAM BY STATE AUDITOR, WHEN. — The Missouri state auditor shall, on a semiannual basis, review the financial status and investment policy of the program as well as the participation rate in the program. The auditor shall also review the continued viability of the program and the administration of the program by the board. The auditor shall report the findings annually to the board, which shall subsequently disclose such findings at a public meeting.

166.555. PROGRAM MONEYS NOT PART OF TOTAL STATE REVENUES. — Money accruing to and deposited in individual deposit accounts shall not be part of total state revenues as defined in sections 17 and 18, article X, Constitution of Missouri, and the expenditure of such revenues shall not be an expense of state government under section 20, article X, Constitution of Missouri.

166.556. CONFIDENTIALITY REQUIREMENTS. — All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri higher education deposit program pursuant to sections 166.500 to 166.556 shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of the program.

166.557. SUNSET PROVISION. — Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under sections 166.500 to 166.557 shall automatically sunset six years after the effective date of sections 166.500 to 166.557 unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under sections 166.500 to 166.557 shall automatically sunset twelve years after the effective date of the reauthorization of sections 166.500 to 166.557; and

(3) Sections 166.500 to 166.557 shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under sections 166.500 to 166.557 is sunset.

362.191. STATE EMPLOYEE COMPENSATION DEDUCTIONS AUTHORIZED FOR INVESTMENT BY OFFICE OF ADMINISTRATION. — Notwithstanding any other provision of law, the commissioner of administration may, in the same manner as provided in section 33.103, RSMo, deduct from any state employee's compensation warrant any amount authorized by the employee for the investments in deposits in any bank which is located in this state, or has a state charter, and is insured by an agency of the United States government.

369.176. STATE EMPLOYEE COMPENSATION DEDUCTIONS AUTHORIZED FOR INVESTMENT BY OFFICE OF ADMINISTRATION. — Notwithstanding any other provision of law, the commissioner of administration may, in the same manner as provided in section 33.103, RSMo, deduct from any state employee's compensation warrant any amount authorized by the employee for the investments in deposits in any savings and loan association or savings bank which is located in this state, or has a state charter, and is insured by an agency of the United States government.

408.032. RECORDING FEES. — 1. Notwithstanding any provisions of law to the contrary, the recording fees, including actual fees paid to a third party by a creditor, may include the following:

- (1) Any fee paid in processing the debtor's liens as provided in section 136.055, RSMo;
 - (2) Any fee paid to a third party for expediting the debtor's motor vehicle or other title or lien with the department of revenue, provided:
 - (a) The creditor does not control the third party; and
 - (b) Both creditor and third party do not share common ownership.
2. Either fee provided for in subdivisions (1) and (2) of subsection 1 of this section may be charged such debtor, and is not included as interest or service charges for the purposes of state usury laws; except that the expeditor fee as provided in subdivision (2) of subsection 1 of this section may not exceed [six] **fifteen** dollars.

408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION. — 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200, RSMo, and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed seventy-five dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty dollars; except that, a minimum charge of ten dollars may be made]. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

(6) Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than twenty-five dollars;

(7) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

(8) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more

than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed loans only and does not affect any other subdivision;

(9) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of the lesser of twenty-five dollars or five percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as that term is defined in section 408.120.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

408.178. DEFERRAL OF MONTHLY LOAN PAYMENTS, FEE AUTHORIZED FOR CERTAIN LOANS. — Notwithstanding any other law to the contrary, on loans with an original amount of six hundred dollars or more, and provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer monthly loan payments, so long as the fee on each deferred period is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, however, a minimum fee of twenty-five dollars is permitted, and no extensions are made until the first loan payment is collected on any one loan. This section applies to nonprecomputed loans only.

408.190. CERTAIN LOANS EXEMPT FROM SECTIONS 408.120 TO 408.180, AND 408.200. — Sections 408.120 to 408.180 and 408.200 shall not apply to any loan on which the rate or amount of interest **and fees** charged or received [is] **are** lawful **under Missouri law** without regard to the rates permitted in section 408.100 **and the fees permitted in sections 408.140, 408.145, and 408.178.**

408.232. RATES AND TERMS. — 1. With respect to a second mortgage loan, any person, firm or corporation may charge, contract for, and receive interest in any manner at rates agreed to by the parties computed on unpaid balances of the principal for the time actually outstanding.

2. The term of the loan, for purposes of this section, commences with the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth of a month and one-three hundred sixtieth of a year. When a second mortgage loan contract provides for monthly installments, the first installment may be payable at any time within one month and fifteen days of the date of the loan.

3. For revolving loans, charges may be computed at a daily rate of one-thirtieth of the monthly rate on actual daily balances or at a monthly rate on the average daily balance in each monthly billing cycle.

4. Sections 408.231 to 408.241 shall not apply to any loans on which the rate of interest **and fees** charged [is] **are** lawful **under Missouri law** without regard to the rates permitted in subsection 1 of this section **and the fees permitted in section 408.233.**

408.480. CHANGES TO CERTAIN SECTIONS REMEDIAL ONLY. — The changes in sections 408.140, 408.145, 408.190, and 408.232 are remedial and should be given that construction; however, this section shall have no effect, favorably or unfavorably, on any case filed in court prior to January 1, 2004.

427.225. NAME OF FINANCIAL INSTITUTION, DECEPTIVE USE OF, WHEN — CAUSE OF ACTION MAY BE BROUGHT BY WHOM — FINANCIAL INSTITUTION DEFINED. — **1. Deceptive use of a financial institution's name in notification or solicitation occurs when a business, or a person acting on its behalf, engages in the following activity:**

(1) Through advertisement, solicitation, or other notification, either verbally or through any other means, informs a consumer of the availability of any type of goods or services that are not free;

(2) The name of an unrelated and unaffiliated financial institution is mentioned in any manner;

(3) The goods or services mentioned are not actually provided by the unrelated and unaffiliated financial institution whose name is mentioned;

(4) The business on whose behalf the notification or solicitation is made does not have a consensual right to mention the name of the unrelated and unaffiliated financial institution; and

(5) Neither the actual name nor trade name of the business on whose behalf the notification or solicitation is being made is stated, nor the actual name or trade name of any actual provider of the goods or services is stated, so as to clearly identify for the consumer a name that is distinguishable and separate from the name of the unrelated and unaffiliated financial institution whose name is mentioned in any manner in the notification or solicitation, and thereby a misleading implication or ambiguity is created, such that a consumer who is the recipient of the advertisement, solicitation or notification may reasonably but erroneously believe:

(a) That the goods or services whose availability is mentioned are made available by or through the unrelated and unaffiliated financial institution whose name is mentioned; or

(b) That the unrelated and unaffiliated financial institution whose name is mentioned is the one communicating with the consumer.

2. Deceptive use of another's name in notification or solicitation occurs when a business, or a person acting on its behalf, engages in the following activity:

(1) Falsely states or implies that any person, product or service is recommended or endorsed by a named third-person financial institution; or

(2) Falsely states that information about the consumer, including but not limited to, the name, address, or phone number of the consumer has been provided by a third-person financial institution, whether that person is named or unnamed.

3. Only the financial institution whose name is deceptively used, as provided in this section, may bring a private civil action and recover a minimum amount of ten thousand dollars, court costs, and attorney fees plus any damages such financial institution may prove at trial.

4. For the purposes of this section, a financial institution includes a commercial bank, savings and loan association, savings bank, credit union, mortgage banker, or consumer finance company, or an institution chartered pursuant to the provisions of an act of the United States known as the Farm Credit Act of 1971.

432.047. CREDIT AGREEMENTS, ACTIONS NOT TO BE MAINTAINED, WHEN — CREDIT AGREEMENT DEFINED. — **1. For the purposes of this section, the term "credit agreement" means an agreement to lend or forbear repayment of money, to otherwise extend credit, or to make any other financial accommodation.**

2. A debtor may not maintain an action upon or a defense, regardless of legal theory in which it is based, in any way related to a credit agreement unless the credit agreement is in writing, provides for the payment of interest or for other consideration, and sets forth the relevant terms and conditions.

3. (1) If a written credit agreement has been signed by a debtor, subsection 2 of this section shall not apply to any credit agreement between such debtor and creditor unless such written credit agreement contains the following language in boldface ten point type: "Oral agreements or commitments to loan money, extend credit or to forbear from enforcing repayment of a debt including promises to extend or renew such debt are not enforceable, regardless of the legal theory upon which it is based that is in any way related to the credit agreement. To protect you (borrower(s)) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it."

(2) Notwithstanding any other law to the contrary in chapter 432, the provisions of this section shall apply to commercial credit agreements only and shall not apply to credit agreements for personal, family, or household purposes.

4. Nothing contained in this section shall affect the enforceability by a creditor of any promissory note, guaranty, security agreement, deed of trust, mortgage, or other instrument, agreement, or document evidencing or creating an obligation for the payment of money or other financial accommodation, lien, or security interest.

443.130. LIABILITY FOR FAILING TO SATISFY — DEMAND BY CERTIFIED MAIL REQUIRED. — 1. If [any such person] **the secured party**, [thus] receiving satisfaction **for the debt secured pursuant to this chapter**, does not, within [fifteen business] **forty-five** days after request and tender of costs, [deliver to the person making satisfaction] **submit for recording** a sufficient deed of release, such [person] **secured party** shall [forfeit] **be liable** to the [party aggrieved] **mortgagor for the lesser of an amount of three hundred dollars a day for each day, after the forty-fifth day, that the secured party fails to submit for recording a sufficient deed of release or ten percent [upon] of the amount of the security instrument, [absolutely, and any other damages such person may be able to prove such person has sustained,] plus court costs and attorney fees** to be recovered in any court of competent jurisdiction. [A business day is any day except Saturday, Sunday and legal holidays.] **In the event a document submitted for recording by a secured party is rejected for recording for any reason, such secured party shall have sixty days following receipt of notice that the document has been rejected in which to submit a recordable and sufficient deed of release.**

2. To qualify under this section, the mortgagor **or his or her agent** shall provide the request in the form of a demand letter to the [mortgagee, cestui qui trust, or assignee] **secured party** by certified mail, return receipt requested **or in another form that provides evidence of the date of receipt to the mortgagor**. The letter shall include good and sufficient evidence that the debt secured by the deed of trust was satisfied with good funds, and the expense of filing and recording the release was advanced.

3. In any action against such person who fails to release the lien as provided in [subsection] **subsections 1 and 2** of this section, the plaintiff, or his **or her** attorney, shall prove at trial that the plaintiff notified the holder of the note by certified mail, return receipt requested, **or as otherwise permitted by subsection 2 of this section.**

506.290. VENUE FOR ACTIONS. — 1. Any suit under the provisions of sections 506.200 to 506.320 shall be filed in the county in which the cause of action accrues or in the county where the plaintiff resides, and if there be other defendants in such action who are residents of the state of Missouri, then such action shall be brought in any county in which any one of said

defendants resides, or in the county within which the plaintiff resides and the defendant may be found.

2. Any civil suit under the provisions of section 570.223, RSMo, for a person charged with identity theft may be filed:

- (1) **In the county in which the offense is committed;**
- (2) **If the offense is committed partly in one county and partly in another, or if the elements of the offense occur in more than one county, then in any of the counties where any element of the offense occurred;**
- (3) **In the county in which the defendant resides;**
- (4) **In the county in which the victim resides; or**
- (5) **In the county in which the property obtained or attempted to be obtained was located.**

513.430. PROPERTY EXEMPT FROM ATTACHMENT — BENEFITS FROM CERTAIN EMPLOYEE PLANS, EXCEPTION — BANKRUPTCY PROCEEDING, FRAUDULENT TRANSFERS, EXCEPTION — CONSTRUCTION OF SECTION. — 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed [one] **three** thousand dollars in value in the aggregate;

(2) **A wedding ring not to exceed one thousand five hundred dollars in value and other** jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value [four] **six** hundred dollars in the aggregate;

(4) Any implements, professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed [two] **three** thousand dollars in value in the aggregate;

(5) Any motor vehicle **in the aggregate**, not to exceed [one] **three** thousand dollars in value;

(6) Any mobile home used as the principal residence **but not on or attached to real property in which the debtor has a fee interest**, not to exceed [one] **five** thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed [five] **seven hundred fifty** dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409);

except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan or profit-sharing plan that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended.

If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

513.440. OTHER PROPERTY EXEMPT — PROVISIONS — EXCEPTIONS. — Each head of a family may select and hold, exempt from execution, any other property, real, personal or mixed, or debts and wages, not exceeding in value the amount of [eight hundred fifty dollars plus two] **one thousand two hundred fifty dollars plus three** hundred fifty dollars for each of such person's unmarried dependent children under the age of eighteen years **or dependent as defined by the Internal Revenue Code of 1986, as amended, determined to be disabled by the Social Security Administration**, except ten percent of any debt, income, salary or wages due such head of a family.

541.033. OFFENSES, WHERE PROSECUTED. — **1.** Persons accused of committing offenses against the laws of this state, except as may be otherwise provided by law, shall be prosecuted:

- (1) In the county in which the offense is committed; or
- (2) If the offense is committed partly in one county and partly in another, or if the elements of the crime occur in more than one county, then in any of the counties where any element of the offense occurred.

2. Persons accused of committing the offenses of identity theft against the laws of this state in sections 570.223, 570.224, and 575.120, RSMo, shall be prosecuted:

- (1) In the county in which the offense is committed;
- (2) If the offense is committed partly in one county and partly in another, or if the elements of the offense occur in more than one county, then in any of the counties where any element of the offense occurred;
- (3) In the county in which the victim resides; or
- (4) In the county in which the property obtained or attempted to be obtained was located.

570.223. IDENTITY THEFT — PENALTY — RESTITUTION — OTHER CIVIL REMEDIES AVAILABLE — EXEMPTED ACTIVITIES. — **1.** A person commits the crime of identity theft if he **or she** knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his **or her** use.

2. [Identity theft is punishable by up to six months in jail for the first offense; up to one year in jail for the second offense; and one to five years imprisonment for the third or subsequent offense] **The term "means of identification" as used in this section includes, but is not limited to, the following:**

- (1) Social Security numbers;
- (2) Drivers license numbers;
- (3) Checking account numbers;
- (4) Savings account numbers;
- (5) Credit card numbers;
- (6) Debit card numbers;
- (7) Personal identification (PIN) code;
- (8) Electronic identification numbers;
- (9) Digital signatures;
- (10) Any other numbers or information that can be used to access a person's financial resources;
- (11) Biometric data;
- (12) Fingerprints;
- (13) Passwords;
- (14) Parent's legal surname prior to marriage;
- (15) Passports; or
- (16) Birth certificates.

3. A person found guilty of identity theft shall be punished as follows:

(1) Identity theft or attempted identity theft which does not result in the theft or appropriation of credit, money, goods, services, or other property is a class B misdemeanor;

(2) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property not exceeding five hundred dollars in value is a class A misdemeanor;

(3) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding five hundred dollars and not exceeding ten thousand dollars in value is a class C felony;

(4) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding ten thousand dollars and not exceeding one hundred thousand dollars in value is a class B felony;

(5) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding one hundred thousand dollars in value is a class A felony.

4. In addition to the provisions of subsection [2] 3 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

(1) In clearing the credit history or credit rating of the victim; and

(2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

5. In addition to the criminal penalties in subsections 3 and 4 of this section, any person who commits an act made unlawful by subsection 1 of this section shall be liable to the person to whom the identifying information belonged for civil damages of up to five thousand dollars for each incident, or three times the amount of actual damages, whichever amount is greater. A person damaged as set forth in subsection 1 of this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of subsection 1 of this section. The court, in an action brought under this subsection, may award reasonable attorneys' fees to the plaintiff.

6. If the identifying information of a deceased person is used in a manner made unlawful by subsection 1 of this section, the deceased person's estate shall have the right to recover damages pursuant to subsection 5 of this section.

7. Civil actions under this section must be brought within five years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered.

8. Civil action pursuant to this section does not depend on whether a criminal prosecution has been or will be instituted for the acts that are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law.

9. Sections 570.223 and 570.224 shall not apply to the following activities:

(1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;

(2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;

(3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;

(4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.

(5) A person is otherwise authorized by law to engage in the conduct that is the subject of the prosecution.

10. Notwithstanding the provisions of subdivisions (1) or (2) of subsection 3 of this section, every person who has previously pled guilty to or been found guilty of identity theft or attempted identity theft, and who subsequently pleads guilty to or is found guilty of identity theft or attempted identity theft of credit, money, goods, services, or other property not exceeding five hundred dollars in value is guilty of a class D felony and shall be punished accordingly.

11. The value of property or services is its highest value by any reasonable standard at the time the identity theft is committed. Any reasonable standard includes, but is not limited to market value within the community, actual value, or replacement value.

12. If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, and services involved.

570.224. TRAFFICKING IN STOLEN IDENTITIES, CRIME OF — POSSESSION OF DOCUMENTS, EXEMPTIONS — VIOLATION, PENALTY. — 1. A person commits the crime of trafficking in stolen identities when such person manufactures, sells, transfers, purchases, or possesses, with intent to sell or transfer means of identification as defined in subsection 2 of section 570.223, for the purpose of committing identity theft.

2. Possession of five or more means of identification of the same person or possession of means of identification of five or more separate persons shall be evidence that the identities are possessed with intent to manufacture, sell, or transfer means of identification for the purpose of committing identity theft. In determining possession of five or more means of identification of the same person, or possession of means of identification of five or more separate persons for the purposes of evidence pursuant to this subsection, the following do not apply:

- (1) The possession of his or her own identification documents;
- (2) The possession of the identification documents of a person who has consented to the person at issue possessing his or her identification documents.

3. Trafficking in stolen identities is a class B felony.

SECTION 1. BOARD OF FUND COMMISSIONERS AND BOARD OF PUBLIC BUILDINGS, ADDITIONAL AUTHORITY. — 1. "Public entity", as used in this section, shall mean the board of fund commissioners of the state and the state board of public buildings.

2. Any public entity as defined in subsection 1 of this section may:

(1) Execute and perform any obligations under any instruments, contracts, or agreements convenient or necessary to incur obligations with interest calculated at a fixed or variable rate, provided that no more than twenty percent of the debt of the public entity to be outstanding on the day after the issuance of any variable rate debt shall be variable rate debt; and

(2) Obtain without any requirement for bidding, but with compliance with the public entity's policies, credit enhancement or other financing arrangements and execute and perform any obligations under any related contracts and agreements convenient or necessary to facilitate such enhancement or financing arrangements including but not limited to arrangements such as municipal bond insurance; surety bonds; liquidity facilities; forward agreements; tender agreements; remarketing agreements; option agreements; interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and purchase agreements.

3. All financial arrangements entered into under the provisions of this section shall be fully enforceable as valid and binding contracts as and to the extent provided herein and by other applicable law.

4. Nothing in this section shall be applied or interpreted to diminish the power any public entity may otherwise have under any other provisions of law.

[570.223. IDENTITY THEFT — PENALTY — RESTITUTION — OTHER CIVIL REMEDIES AVAILABLE — EXEMPTED ACTIVITIES. — 1. A person commits the crime of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use.

2. [Identity theft is punishable by up to six months in jail for the first offense; up to one year in jail for the second offense; and one to five years imprisonment for the third or subsequent offense.] **The term "means of identification" as used in this section includes, but is not limited to, the following:**

- (1) Social Security numbers;
- (2) Drivers license numbers;
- (3) Checking account numbers;
- (4) Savings account numbers;
- (5) Credit card numbers;
- (6) Debit card numbers;
- (7) Personal identification (PIN) code;
- (8) Electronic identification numbers;
- (9) Digital signatures;
- (10) Any other numbers or information that can be used to access a person's financial resources;
- (11) Biometric data;
- (12) Fingerprints;
- (13) Passwords;
- (14) Parent's legal surname prior to marriage;
- (15) Passports; or
- (16) Birth certificates.

3. A person found guilty of identity theft shall be punished as follows:

(1) Identity theft or attempted identity theft which does not result in the theft or appropriation of credit, money, goods, services, or other property is a class B misdemeanor;

(2) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property not exceeding five hundred dollars in value is a class A misdemeanor;

(3) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding five hundred dollars and not exceeding one thousand dollars in value is a class D felony;

(4) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding one thousand dollars and not exceeding ten thousand dollars in value is a class C felony;

(5) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding ten thousand dollars and not exceeding one hundred thousand dollars in value is a class B felony;

(6) Identity theft which results in the theft or appropriation of credit, money, goods, services, or other property exceeding one hundred thousand dollars in value is a class A felony.

4. In addition to the provisions of subsection [2] 3 of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney fees, incurred by the victim:

- (1) In clearing the credit history or credit rating of the victim; and
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(2) In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

5. In addition to the criminal penalties in subsections 3 and 4 of this section, any person who commits an act made unlawful by subsection 1 of this section shall be liable to the person to whom the identifying information belonged for civil damages of up to five thousand dollars for each incident, or three times the amount of actual damages, whichever amount is greater. A person damaged as set forth in subsection 1 of this section may also institute a civil action to enjoin and restrain future acts that would constitute a violation of subsection 1 of this section. The court, in an action brought under this subsection, may award reasonable attorneys' fees to the plaintiff.

6. If the identifying information of a deceased person is used in a manner made unlawful by subsection 1 of this section, the deceased person's estate shall have the right to recover damages pursuant to subsection 5 of this section.

7. Any person charged with identity theft shall be prosecuted:

- (1) In the county in which the offense is committed; or
- (2) If the offense is committed partly in one county and partly in another, or if the elements of the offense occur in more than one county, then in any of the counties where any element of the offense occurred; or
- (3) In the county in which the defendant resides; or
- (4) In the county in which the victim resides; or
- (5) In the county in which the property obtained or attempted to be obtained was located. Civil actions under this section must be brought within five years from the date on which the identity of the wrongdoer was discovered or reasonably should have been discovered.

8. Civil action pursuant to this section does not depend on whether a criminal prosecution has been or will be instituted for the acts that are the subject of the civil action. The rights and remedies provided by this section are in addition to any other rights and remedies provided by law.

9. Sections 570.223 and 570.224 shall not apply to the following activities:

- (1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;
- (2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction;
- (3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
- (4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.

10. Notwithstanding the provisions of subdivisions (1) or (2) of subsection 3 of this section, every person who has previously pled guilty to or been found guilty of identity theft or attempted identity theft, and who subsequently pleads guilty to or is found guilty of identity theft or attempted identity theft of credit, money, goods, services, or other property not exceeding five hundred dollars in value is guilty of a class D felony and shall be punished accordingly.

11. The value of property or services is its highest value by any reasonable standard at the time the identity theft is committed. Any reasonable standard includes, but is not limited to market value within the community, actual value, or replacement value.

12. If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the identity thefts are attributable

to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft and the value may be the total value of all credit, property, and services involved.

13. In a criminal proceeding pursuant to this section, venue will be proper in any county where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality.

14. A person who commits the crime of identity theft for the purpose of committing a terrorist act as defined by existing federal law, or for the purpose of aiding or abetting another in committing a terrorist act shall be guilty of a Class A felony.

15. A person who commits the crime of identity theft for the purpose of voting, obtaining another person's voting privileges, or altering the results of an election or aiding or abetting another in obtaining another person's voting privileges or altering the result of an election shall be guilty of a Class C felony.]

[570.224. TRAFFICKING IN STOLEN IDENTITIES, CRIME OF — POSSESSION OF DOCUMENTS, EXEMPTIONS — VIOLATION, PENALTY. — 1. A person commits the crime of trafficking in stolen identities when such person manufactures, sells, transfers, purchases, or possesses, with intent to sell or transfer means of identification or identifying information, for the purpose of committing identity theft. In determining possession of five or more identification documents of the same person, or possession of identifying information of five or more separate persons for the purposes of evidence pursuant to this subsection, the following do not apply:

- (1) The possession of his or her own identification documents;**
- (2) The possession of the identification documents of a person who has consented to the person at issue possessing his or her identification documents.**

2. Unauthorized possession of means of identification of five or more separate persons, shall be evidence that the identities are possessed with intent to manufacture, sell, or transfer means of identification or identifying information for the purpose of committing identity theft.

3. Trafficking in stolen identities is a class B felony.]

Approved June 14, 2004

HB 960 [SCS HB 960]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates various portions of highways and bridges as memorials.

AN ACT to amend chapters 227 and 234, RSMo, by adding thereto four new sections relating to memorial highways.

SECTION

- A. Enacting clause.
- 227.339. Trooper Russell Harper Memorial Highway designated for a portion of U.S. Highway 60.
- 227.351. Trooper Dennis H. Marriott Memorial Highway designated for a portion of U.S. Highway 54 located in Cole County.
- 227.357. Trooper Wayne W. Allman Memorial Bridge designated for the bridge on State Route 7 in Cass County.
- 234.707. Brown-Stinson Memorial Bridge designated for bridge number A4975 located in Franklin County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 227 and 234, RSMo, are amended by adding thereto four new sections, to be known as sections 227.339, 227.351, 227.357, and 234.707, to read as follows:

227.339. TROOPER RUSSELL HARPER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 60. — The portion of U.S. Highway 60 one mile east of U.S. Highway 65 to the U.S. Highway 60 and U.S. Highway 65 intersection shall be designated the "Trooper Russell Harper Memorial Highway". Costs for such designation shall be paid by the Missouri Troopers' Association.

227.351. TROOPER DENNIS H. MARRIOTT MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 54 LOCATED IN COLE COUNTY. — The portion of U.S. Highway 54 located within a county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants from the highway 179 intersection to a location one mile south of such intersection shall be designated the "Trooper Dennis H. Marriott Memorial Highway". The costs for such designation shall be paid by the Missouri Troopers' Association.

227.357. TROOPER WAYNE W. ALLMAN MEMORIAL BRIDGE DESIGNATED FOR THE BRIDGE ON STATE ROUTE 7 IN CASS COUNTY. — The bridge on state route 7 crossing over state route B in Cass County shall be designated the "Trooper Wayne W. Allman Memorial Bridge".

234.707. BROWN-STINSON MEMORIAL BRIDGE DESIGNATED FOR BRIDGE NUMBER A4975 LOCATED IN FRANKLIN COUNTY. — The bridge, bridge number A4975, located at log mile 1.067 on Missouri Route 30 within Franklin County shall be designated the "Brown-Stinson Memorial Bridge".

Approved July 2, 2004

HB 970 [HB 970]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends various provisions regarding licensure of dentists and dental hygienists.

AN ACT to repeal sections 332.171, 332.181, 332.261, 332.321, and 332.341, RSMo, and to enact in lieu thereof five new sections relating to dentists and dental hygienists.

SECTION

- A. Enacting clause.
- 332.069. Practice of dentistry across state lines, restrictions — no license required, when.
- 332.171. Specialist license, fee, issued when — evaluation committee established, compensation.
- 332.181. License to practice dentistry, application, fee, renewal, requirements.
- 332.261. License as dental hygienist, application, fee, renewal — renewal and reinstatement procedure.
- 332.321. Refusal to issue or renew, revocation or suspension of license, grounds for, procedure — additional disciplinary actions.
- 332.341. Charges, how brought — insufficiency, effect of — hearing, how held.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 332.171, 332.181, 332.261, 332.321, and 332.341, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 332.069, 332.171, 332.181, 332.261, and 332.321, to read as follows:

332.069. PRACTICE OF DENTISTRY ACROSS STATE LINES, RESTRICTIONS — NO LICENSE REQUIRED, WHEN. — 1. Any person or entity not licensed to practice dentistry in Missouri shall not engage in the practice of dentistry, as defined in section 332.171, across state lines except as provided in this section.

2. For purposes of this chapter, the "practice of dentistry across state lines" means:

(1) The rendering of any written or otherwise documented dental opinion concerning the diagnosis or treatment of a patient within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic, telephonic, or other means from within this state or any other state to such dentist or dentist's agent; or

(2) The rendering of treatment to a patient within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic, telephonic, or other means from within this state or any other state to such dentist or dentist's agent.

3. A dentist located outside this state shall not be required to obtain a license in this state when:

(1) A consultation is requested by a licensed dentist in this state who retains ultimate authority and responsibility for the diagnosis or treatment of a patient located within this state; and

(2) The consultation request is not due to a contractual agreement to authorize or request consultations from a person or entity not licensed to practice dentistry in Missouri; or

(3) Evaluating a patient or rendering an oral, written, or otherwise documented dental opinion when providing testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state.

332.171. SPECIALIST LICENSE, FEE, ISSUED WHEN — EVALUATION COMMITTEE ESTABLISHED, COMPENSATION. — 1. The board shall upon application [and without examination] issue a specialist's [certificate] **license** to any [registered and] currently licensed dentist in Missouri who has been certified in any specialty by an [American] **examining** board recognized by the American Dental Association[; but]. Any such application shall be accompanied by the required [specialty] fee.

2. Any [registered and] currently licensed dentist in Missouri who **has completed a dental specialty program accredited by the Council on Dental Accreditation but** is not eligible [to apply] **for specialty licensure** under subsection 1 [above] **of this section**, may apply to the board for [certification] **specialty licensure** in one of the [special areas approved] **specialty areas recognized** by the American Dental Association [for specialty practice]. Each such application shall be accompanied by the required [specialty] fee. The board shall establish by rule the minimum requirements for specialty [certification] **licensure** under this subsection. **The board shall issue a specialty license to an applicant under this subsection if the applicant meets the requirements of this subsection.**

3. [An examination committee, appointed by the board, consisting of three dentists who have been certified by an American board approved by the American Dental Association as having met the standards set by that association for the specialty for which application is made, shall examine each applicant for a specialty at the time and place fixed by the board in a manner to thoroughly test his qualifications in the specialty applied for, and report to the board as to whether the applicant is qualified in the specialty.]

4. In the event any applicant fails to pass the examination and is reported by the examining committee as not qualified, he may upon application to the board be reexamined by the committee at such time and place as the board may specify, but any such applicant shall pay a reexamination fee equivalent to the specialty fee] **The board shall grant a license in one of the specialty areas recognized by the American Dental Association to a dentist who has been certified or licensed and is practicing in another state, province, or territory if the applicant meets the following requirements and the application is accompanied by the required fee:**

(1) **The applicant currently holds a Missouri license to practice dentistry or obtains such license under sections 332.131 and 332.181, or under section 332.211;**

(2) **The applicant meets the educational requirements for specialty licensure required of original applicants for specialty licensure in the state of Missouri as required in subsections 1 and 2 of this section;**

(3) **The applicant meets such other minimum requirements for specialty licensure under this subsection as may be required by the board.**

4. **The board may establish a committee for each American Dental Association recognized specialty applied for consisting of at least two dentists appointed by the board who hold valid Missouri specialty licenses in the recognized specialty and who are current diplomats of an American specialty board recognized by the American Dental Association. Each committee shall assist the board in evaluating an applicant for specialty licensure in the recognized specialty for which that committee was established and assume such other duties as established by rule of the board.**

5. Each member of [each examining] **a specialty** committee appointed by the board as provided in this section shall receive as compensation an amount set by the board, not to exceed fifty dollars[,] for each day spent in the performance of his **or her** duties on the committee and each member shall be reimbursed for all actual and necessary expenses incurred in the performance of his **or her** duties.

6. [The board shall issue to each applicant who has been recommended as qualified by the examining committee, as provided in subsection 3 of this section, a certificate of registration to practice dentistry in the specialty in which he has been so recommended.

7. The board may also grant without examination a certificate of registration and a license in one of the specialty areas recognized by the American Dental Association to a dentist who has been so certified and/or licensed in another state, if the applicant meets the following requirements:

(1) Applicant must either currently hold a Missouri license to practice dentistry or obtain one through the provisions of sections 332.131 and 332.181, or through the provisions of section 332.211;

(2) Applicant must have taken and passed an examination equivalent to that given in Missouri and have been granted a specialty license in another state. It is the obligation of the applicant to provide proper documentation which must include the content and grades received in each portion of the examination and be certified by the state which administered the examination. Determination as to whether an examination taken in another state is equivalent to that given in Missouri will be made by the current Missouri specialty examining committee in the appropriate specialty area;

(3) Applicant must have met the same educational requirements for certification and licensure under this subsection as required of original applicants in the state of Missouri, as established by rule by the board.

8. All such certificates shall be subject to revocation and suspension for the causes set forth in section 332.321 and each certificate holder shall renew his regular license as provided in section 332.181 and shall pay the regular renewal fee provided therefor and shall also renew his specialty license and shall pay a specialty renewal fee] **All specialty licenses shall be subject to discipline for cause as set forth in section 332.321, and each specialty license holder shall**

renew his or her specialty license or licenses as provided for in section 332.181 and shall pay the renewal fee provided therefore.

7. The board shall issue to each applicant who has been recommended as qualified by the specialty committee, as provided in subsection 4 of this section, a license to practice dentistry in the specialty for which he or she has been so recommended.

332.181. LICENSE TO PRACTICE DENTISTRY, APPLICATION, FEE, RENEWAL, REQUIREMENTS. — 1. No person shall engage in the practice of dentistry in Missouri without having first secured a license as provided for in this chapter.

2. Any person desiring a license to practice dentistry in Missouri shall **pay the required fee and** make application to the board on a form prescribed by the board pursuant to section 332.141. An application for licensure shall be active for one year after the date it is received by the board. The application becomes void if not completed within such one-year period.

3. All persons once licensed to practice dentistry in Missouri shall renew his or her license to practice dentistry in Missouri on or before the license renewal date and shall display his or her license for each current licensing period in the office in which he or she practices or offers to practice dentistry.

4. Effective with the licensing period beginning on December 1, 2002, a license shall be renewed every two years. [The board shall not renew the license of any dentist unless the licensee provides satisfactory evidence that he or she has completed fifty hours of continuing education within a two-year period.] **To renew a license, each dentist shall submit satisfactory evidence of completion of fifty hours of continuing education during the two-year period immediately preceding the renewal period. Each dentist shall maintain documentation of completion of the required continuing education hours as provided by rule. Failure to obtain the required continuing education hours, submit satisfactory evidence, or maintain documentation is a violation of section 332.321. As provided by rule,** the board may **waive and/or** extend the time requirements for completion of continuing education [up to six months] for reasons related to health, military service, foreign residency or for other good cause. All requests for **waivers and/or** extensions of time shall be made in writing and submitted to the board before the renewal date. [The board may waive the requirements for continuing education for retired or disabled dentists or for other good cause.]

5. Any licensed dentist who fails to renew his or her license on or before the renewal date may apply to the board for renewal of his or her license within four years subsequent to the date of the license expiration[, provided that any such applicant shall pay a reinstatement fee for the license.

6. The license of any dentist who fails to renew within four years of the time his or her license has expired shall be void. The dentist may reapply for a license, provided that, unless application is made pursuant to section 332.211, he or she shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dentist. A currently licensed dentist in Missouri may apply to the board to be placed on an inactive list of dentists, and during the time his or her name remains on the inactive list, he or she shall not practice dentistry. If a dentist wishes to be removed from the inactive list, unless he or she applies pursuant to section 332.211, he or she shall apply for a current license and pay the license fees for the years between the date of the entry of his or her name on the inactive list and the date of issuance of his current license. If the dentist has been on the inactive list for more than four years, he or she shall be examined in the same manner as an original applicant for licensure as a dentist.

7. A currently licensed dentist in Missouri who does not maintain a practice in this state or does not reside in this state may apply to the board to be placed on an out-of-state licensee list of dentists. Any dentist applying to be so licensed shall accompany his or her application with a fee not greater than the licensure fee for a licensee who maintains a practice in this state or who resides in this state. The required fee shall be established by the board, by rule, as with other

licensing fees]. To renew an expired license, the person shall submit an application for renewal, pay the renewal fee and renewal penalty fee as set by rule, and submit satisfactory evidence of completion of at least fifty hours of continuing education for each renewal period that his or her license was expired as provided by rule. The required hours must be obtained within four years prior to renewal. The license of any dentist who fails to renew within four years of the time his or her license has expired shall be void. The dentist may apply for a new license; provided that, unless application is made under section 332.321, the dentist shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dentist.

332.261. LICENSE AS DENTAL HYGIENIST, APPLICATION, FEE, RENEWAL — RENEWAL AND REINSTATEMENT PROCEDURE. — 1. No person shall engage in the practice of dental hygiene without having first secured a license as provided for in this chapter.

2. Any person desiring a license to practice dental hygiene in Missouri shall **pay the required fee and** make application to the board on a form prescribed by the board pursuant to section 332.241. An application for licensure shall be active for one year after the date it is received by the board. The application becomes void if not completed within such one-year period.

3. All persons once licensed to practice as a dental hygienist in Missouri shall renew his or her license to practice on or before the renewal date and shall display his or her license for each current licensing period in the office in which he or she practices or offers to practice as a dental hygienist.

4. Effective with the licensing period beginning on December 1, 2002, a license shall be renewed every two years. [The board shall not renew the license of any hygienist unless the licensee provides satisfactory evidence that he or she has completed thirty hours of continuing education within a two-year period.] **To renew a license, each dental hygienist shall submit satisfactory evidence of completion of thirty hours of continuing education during the two-year period immediately preceding the renewal period. Each dental hygienist shall maintain documentation of completion of the required continuing education hours as provided by rule. Failure to obtain the required continuing education hours, submit satisfactory evidence, or maintain documentation is a violation of section 332.321 and may subject the licensee to discipline.** As provided by rule, the board may waive and/or extend the time requirements for completion of the continuing education [up to six months] for reasons related to health, military service, foreign residency or for other good cause. All requests for **waivers and/or** extensions of time shall be made in writing and submitted to the board before the renewal date. [The board may waive the requirements for continuing education for retired or disabled hygienists or for other good cause.]

5. Any licensed dental hygienist who fails to renew his or her license on or before the renewal date may apply to the board for renewal of his or her license within four years subsequent to the date of the license expiration[, provided that any such applicant shall pay a reinstatement fee for the license.

6. The license of any dental hygienist who fails to renew within four years of the time that his or her license expired shall be void. The dental hygienist may apply for a new license, provided that, unless application is made pursuant to section 332.281, he or she shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dental hygienist. A currently licensed dental hygienist in Missouri may apply to the board to be placed on an inactive list of dental hygienists, and during the time his or her name remains on the inactive list, he or she shall not practice as a dental hygienist. If a dental hygienist wishes to be removed from the inactive list, unless he or she applies pursuant to section 332.281, he or she shall apply for a current license and pay the license fees for the years between the date of the entry of his or her name on the inactive list and the date of issuance of his or her current license.

If the dental hygienist has been on the inactive list for more than four years, he or she shall be examined in the same manner as an original applicant for licensure as a dental hygienist.

7. A currently licensed dental hygienist in Missouri who does not practice in this state or who does not reside in this state may apply to the board to be placed on an out-of-state registration list of dental hygienists. Any dental hygienist applying to be so licensed shall accompany his or her application with a fee not greater than the license fee for a licensee who practices in this state or resides in this state. The required fee shall be established by the board, by rule, as with other licensing fees]. **To renew an expired license, the person shall submit an application for renewal, pay the renewal fee and renewal penalty fee as set by rule, and submit satisfactory evidence of completion of at least thirty hours of continuing education for each renewal period that his or her license was expired as provided by rule. The required hours must be obtained within four years prior to renewal. The license of any dental hygienist who fails to renew within four years of the time his or her license has expired shall be void. The dental hygienist may reapply for a license; provided that, unless application is made under section 332.281, the dental hygienist shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dental hygienist.**

332.321. REFUSAL TO ISSUE OR RENEW, REVOCATION OR SUSPENSION OF LICENSE, GROUNDS FOR, PROCEDURE — ADDITIONAL DISCIPLINARY ACTIONS. — 1. The board may refuse to issue or renew a permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section or the board may, as a condition to issuing or renewing any such permit or license, require a person to submit himself or herself for identification, intervention, treatment or rehabilitation by the well-being committee as provided in section 332.327. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; or increasing charges when a patient utilizes a third-party payment program; or for repeated irregularities in billing a third party for services rendered to a patient. For the purposes of this subdivision, irregularities in billing shall include:

(a) Reporting charges for the purpose of obtaining a total payment in excess of that usually received by the dentist for the services rendered;

(b) Reporting incorrect treatment dates for the purpose of obtaining payment;

(c) Reporting charges for services not rendered;

(d) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the person is entitled;

(e) Abrogating the co-payment or deductible provisions of a third-party payment contract. Provided, however, that this paragraph shall not prohibit a discount, credit or reduction of charges provided under an agreement between the licensee and an insurance company, health service corporation or health maintenance organization licensed pursuant to the laws of this state; or governmental third-party payment program; or self-insurance program organized, managed or funded by a business entity for its own employees or labor organization for its members;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a permit or license or allowing any person to use his or her permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter imposed by another state, province, territory, federal agency or country upon grounds for which discipline is authorized in this state;

(9) A person is finally adjudicated incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice, by lack of supervision or in any other manner, any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(11) Issuance of a permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate, permit or license if so required by this chapter or by any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation that is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed. False, misleading or deceptive advertisements or solicitations shall include, but not be limited to:

(a) Promises of cure, relief from pain or other physical or mental condition, or improved physical or mental health;

(b) Any misleading or deceptive statement offering or promising a free service. Nothing herein shall be construed to make it unlawful to offer a service for no charge if the offer is announced as part of a full disclosure of routine fees including consultation fees;

(c) Any misleading or deceptive claims of patient cure, relief or improved condition; superiority in service, treatment or materials; new or improved service, treatment or material; or reduced costs or greater savings. Nothing herein shall be construed to make it unlawful to use any such claim if it is readily verifiable by existing documentation, data or other substantial evidence. Any claim that exceeds or exaggerates the scope of its supporting documentation, data or evidence is misleading or deceptive;

(d) Any announced fee for a specified service where that fee does not include the charges for necessary related or incidental services, or where the actual fee charged for that specified service may exceed the announced fee, but it shall not be unlawful to announce only the maximum fee that can be charged for the specified service, including all related or incidental services, modified by the term "up to" if desired;

(e) Any announcement in any form including the term "specialist" or the phrase "limited to the specialty of" unless each person named in conjunction with the term or phrase, or responsible for the announcement, holds a valid Missouri certificate and license evidencing that the person is a specialist in that area;

(f) Any announcement containing any of the terms denoting recognized specialties, or other descriptive terms carrying the same meaning, unless the announcement clearly designates by list

each dentist not licensed as a specialist in Missouri who is sponsoring or named in the announcement, or employed by the entity sponsoring the announcement, after the following clearly legible or audible statement: "Notice: the following dentist(s) in this practice is (are) not licensed in Missouri as specialists in the advertised dental specialty(s) of";

(g) Any announcement containing any terms denoting or implying specialty areas that are not recognized by the American Dental Association;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(17) Failing to maintain his or her office or offices, laboratory, equipment and instruments in a safe and sanitary condition;

(18) Accepting, tendering or paying "rebates" to or "splitting fees" with any other person; provided, however, that nothing herein shall be so construed as to make it unlawful for a dentist practicing in a partnership or as a corporation organized pursuant to the provisions of chapter 356, RSMo, to distribute profits in accordance with his or her stated agreement;

(19) Administering, or causing or permitting to be administered, nitrous oxide gas in any amount to himself or herself, or to another unless as an adjunctive measure to patient management;

(20) Being unable to practice as a dentist, specialist or hygienist with reasonable skill and safety to patients by reasons of professional incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. In enforcing this subdivision the board shall, after a hearing before the board, upon a finding of probable cause, require the dentist or specialist or hygienist to submit to a reexamination for the purpose of establishing his or her competency to practice as a dentist, specialist or hygienist, which reexamination shall be conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the dentist's, specialist's or hygienist's professional competence by at least three dentists or fellow specialists, or to submit to a mental or physical examination or combination thereof by at least three physicians. One examiner shall be selected by the dentist, specialist or hygienist compelled to take examination, one selected by the board, and one shall be selected by the two examiners so selected. Notice of the physical or mental examination shall be given by personal service or registered mail. Failure of the dentist, specialist or hygienist to submit to the examination when directed shall constitute an admission of the allegations against him or her, unless the failure was due to circumstances beyond his or her control. A dentist, specialist or hygienist whose right to practice has been affected pursuant to this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(a) In any proceeding pursuant to this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against a dentist, specialist or hygienist in any other proceeding. Proceedings pursuant to this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(b) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the following: denying his or her application for a license; permanently withholding issuance of a license; administering a public or private reprimand; placing on probation, suspending or limiting or restricting his or her license to practice as a dentist, specialist or hygienist for a period of not more than five years; revoking his or her license to practice as a dentist, specialist or hygienist; requiring him or her to submit to the care, counseling or treatment of physicians designated by the dentist, specialist or hygienist compelled to be treated; or requiring such person to submit to identification, intervention, treatment or rehabilitation by the well-being committee as provided in section 332.327. For the purpose of this subdivision, "license" includes the certificate of registration, or license, or both, issued by the board.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination:

(1) Censure or place the person or firm named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years; or

(2) Suspend the license, certificate or permit for a period not to exceed three years; or

(3) Revoke the license, certificate, or permit. In any order of revocation, the board may provide that the person shall not apply for licensure for a period of not less than one year following the date of the order of revocation; or

(4) Cause the person or firm named in the complaint to make restitution to any patient, or any insurer or third-party payer who shall have paid in whole or in part a claim or payment for which they should be reimbursed, where restitution would be an appropriate remedy, including the reasonable cost of follow-up care to correct or complete a procedure performed or one that was to be performed by the person or firm named in the complaint; or

(5) Request the attorney general to bring an action in the circuit court of competent jurisdiction to recover a civil penalty on behalf of the state in an amount to be assessed by the court.

4. **If the board concludes that a dentist or dental hygienist has committed an act or is engaging in a course of conduct that would be grounds for disciplinary action and constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the conduct that gives rise to the danger and the nature of the proposed restriction or suspension of the dentist's or dental hygienist's license. Within fifteen days after service of the complaint on the dentist or dental hygienist, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged conduct of the dentist or dental hygienist appears to constitute a clear and present danger to the public health and safety that justifies that the dentist's or dental hygienist's license be immediately restricted or suspended. The burden of proving that a dentist or dental hygienist is a clear and present danger to the public health and safety shall be upon the Missouri dental board. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.**

5. **If the administrative hearing commission grants temporary authority to the board to restrict or suspend a dentist's or dental hygienist's license, the dentist or dental hygienist named in the complaint may request a full hearing before the administrative hearing commission. A request for a full hearing shall be made within thirty days after the administrative hearing commission issues a decision. The administrative hearing commission shall, if requested by a dentist or dental hygienist named in the complaint, set a date to hold a full hearing under chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board. The administrative hearing commission shall set the date for full hearing within ninety days from the date its decision was issued. Either party may request continuances, which shall be granted by the administrative hearing commission upon a showing of good cause by either party or consent of both parties. If a request for a full hearing is not made within thirty days, the authority to impose discipline becomes final and the board shall set the matter for hearing in accordance with section 621.110, RSMo.**

6. **If the administrative hearing commission dismisses without prejudice the complaint filed by the board under subsection 4 of this section or dismisses the action based on a finding that the board did not meet its burden of proof establishing a clear and present danger, such dismissal shall not bar the board from initiating a subsequent action on the same grounds in accordance with this chapter and chapters 536 and 621, RSMo.**

7. Notwithstanding any other provisions of section 332.071 or of this section, a currently licensed dentist in Missouri may enter into an agreement with individuals and organizations to provide dental health care, provided such agreement does not permit or compel practices that violate any provision of this chapter.

[5.] 8. At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either the attorney general or one of the attorney general's assistants designated by the attorney general or other legal counsel to appear and represent the board at each stage of such proceeding or trial until its conclusion.

[6.] 9. If at any time when any discipline has been imposed pursuant to this section or pursuant to any provision of this chapter, the licensee removes himself or herself from the state of Missouri, ceases to be currently licensed pursuant to the provisions of this chapter, or fails to keep the Missouri dental board advised of his or her current place of business and residence, the time of his or her absence, or unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed.

[332.341. CHARGES, HOW BROUGHT — INSUFFICIENCY, EFFECT OF — HEARING, HOW HELD. — 1. Any person or other entity who believes that a registered and licensed dentist or a registered and licensed dental hygienist has so acted or failed to act that his certificate of registration or license or both should, under the provisions of this chapter, be suspended or revoked, or who believes that any applicant for a certificate of registration or license to practice dentistry or to practice as a dental hygienist is not entitled thereto under the provisions of this chapter, may file a complaint with the secretary-treasurer of the board.

2. If the complaint so filed does not contain statements of fact which if true would authorize, under the provisions of this chapter, suspension or revocation of the accused's certificate or license, or does not contain statements of fact which if true would authorize, under the provisions of this chapter, the refusal to issue a certificate or license to an applicant, the board shall either forthwith dismiss the charge or the charges or, within its discretion, cause an investigation to be made of the charges contained in the complaint; after which investigation the board shall either dismiss the charge or charges or proceed against the accused by written complaint as hereinafter provided.

3. If the complaint so filed contains statements of fact which if true would authorize, under the provisions of this chapter, the revocation or suspension of an accused's certificate or license, or both, the board shall cause an investigation to be made of the charge or charges contained in the complaint and unless the investigation discloses the falsity of the facts upon which the charge or charges in the complaint are based, the board shall file with and in the administrative hearing commission a written complaint against the accused setting forth the cause or causes for which his certificate of registration or license or both should be suspended or revoked. Thereafter the board shall be governed by and shall proceed in accordance with the provisions of chapter 621, RSMo.

4. If the charges contained in the complaint filed with the board (after the investigation as aforesaid), if true, would constitute a cause or causes for which, under the provisions of this chapter, an accused's license should not be issued or renewed or a cause or causes for which under the provisions of this chapter a certificate of registration should not be issued, the board shall cause an investigation to be made of the charge or charges and unless the investigation discloses the falsity of the facts upon which the charge or charges contained in the complaint are based, the board shall refuse to permit an applicant to be examined upon his qualifications for licensure or shall refuse to issue a certificate or license or to renew a license, as the case may require.

5. The provisions of this section shall not be so construed as to prevent the board on its own initiative from instituting and conducting investigations and based thereon to make written complaints in and to the hearing commission.

6. If for any reason the provisions of chapter 621, RSMo, become inapplicable to the board, then, and in that event, the board shall proceed to charge, adjudicate and otherwise act in accordance with the provisions of chapter 536, RSMo.]

Approved July 2, 2004

HB 975 [HB 975]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises certain provisions governing land trusts.

AN ACT to repeal sections 141.710, 141.760, and 141.790, RSMo, and to enact in lieu thereof three new sections relating to land trusts.

SECTION

- A. Enacting clause.
- 141.710. Beneficiaries of land trust (charter counties and certain first class counties).
- 141.760. Administration of delinquent tax lands by trust (charter counties and certain first class counties).
- 141.790. Proceeds of sale of real estate disposed of by a land trust — distribution (charter counties and certain first class counties).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 141.710, 141.760, and 141.790, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 141.710, 141.760, and 141.790, to read as follows:

141.710. BENEFICIARIES OF LAND TRUST (CHARTER COUNTIES AND CERTAIN FIRST CLASS COUNTIES). — The beneficiaries of the land trust shall be the taxing authorities [and tax bill owners or holders, if any, which held or owned tax bills against the respective parcel of real estate sold to the land trust at sheriff's foreclosure sale included in the judgment of the court, and their respective interests in each parcel of real estate shall be to the extent and in the proportion and according to the priorities determined by the court on the basis which the principal amount of their respective tax bills bore to the total principal amount of all of the tax bills described in the judgment] **which impose real estate taxes on the land trust property at the time of its sale.**

141.760. ADMINISTRATION OF DELINQUENT TAX LANDS BY TRUST (CHARTER COUNTIES AND CERTAIN FIRST CLASS COUNTIES). — It shall be the duty of such land trust to administer the tax delinquent lands, as follows:

(1) Such land trust shall immediately assume possession and control of all real estate acquired by it under the provisions of sections 141.210 to 141.810, cause the land commissioner to proceed to inventory [and appraise] such land, and thereafter keep and maintain a perpetual inventory of such real estate.

(2) It shall, upon recommendation of the land commissioner, classify such land as to its use, into the following three classifications:

- (a) Suitable for private use;
- (b) Suitable for public use;
- (c) Not usable in its present condition or situation and held as a public land reserve.

(3) Such land trust shall make every effort to return land in classification (a) to such private ownership and use as soon as possible; to offer land classified in class (b) to any public body which shall indicate a need or a use therefor; the price and terms, in each case, to be in the sole discretion of the land trustees, subject to the provisions of subdivision (4) hereof; and shall study and make recommendations to taxing authorities as to possible use of real estate classified in class (c). In furtherance of this object such land trust shall have access to any and all records in any city or county office at any time and may call upon any and all city and county officers, departments, boards, planning commissions or other commissions for studies, statistics or recommendations. Such land trust shall prepare a list of all land in class (a), which list shall be corrected and amended from time to time in the discretion of the trustees. Such trustees may make a charge, not to exceed [one dollar] **the actual cost of documentation and duplication**, for each copy of such list which money shall be used to help defray the costs of preparing such list. Any person may purchase a copy of such list. Any real estate agent or broker licensed to do business in the county may when authorized by the trustees sell any such property upon the terms and conditions imposed by the trustees, and the trustees are authorized and empowered to pay reasonable real estate commissions; and provided, that nothing herein shall prohibit the trustees from selling or exchanging any such real estate directly to or with any purchaser.

(4) Such land trustees shall have power, and it shall be their duty, to manage, maintain, protect, rent, lease, repair, insure, alter, sell, trade, exchange or otherwise dispose of any such real estate, on such terms and conditions as may be determined in the sole discretion of the trustees. Said trustees may sell for cash or for terms of not less than ten percent cash at time of purchase, and the balance to be paid within not more than fifteen years from the time of such purchasing agreement, with interest at a legal rate, which sale shall be represented by contract for a deed or by purchaser's note, secured by mortgage or deed of trust on such real estate. Such land trustees may assemble tracts or parcels of real estate for public parks or other public purposes and to such end may exchange parcels, and otherwise effectuate such purposes by agreement with any taxing authority.

(5) Such land trust shall adopt rules and regulations in harmony with sections 141.210 to 141.810, and shall keep records of all its transactions, which records shall be open to inspection of any taxing authority in the county at any time. There shall be an annual audit of the affairs, accounts, expenses, and financial transactions of such land trust by certified public accountants as of December thirty-first of each year, which accountants shall be employed by the trustees on or before November first of each year, and certified copies thereof shall be furnished to the appointing authorities described in section 141.720, and shall be available for public inspection at the offices of such appointing authorities.

141.790. PROCEEDS OF SALE OF REAL ESTATE DISPOSED OF BY A LAND TRUST — DISTRIBUTION (CHARTER COUNTIES AND CERTAIN FIRST CLASS COUNTIES). — [1. Such land trust shall set up accounts on its books relating to the operation, management, or other expense of each individual parcel of real estate.

2.] When any parcel of real estate is sold or otherwise disposed of by the land trust, the proceeds therefrom shall be applied and distributed in the following order:

(1) To the payment of the expenses of sale;

(2) [To the payment of any penalties, attorney's fees or costs which were included in the judgment originally entered against said parcel of real estate, plus its proportional part of the costs of sheriff's foreclosure sale, as shown on the books of the collector;

(3) To the payment of the costs of the care, improvement, operation, and management of such parcel of real estate as determined by the land trustees and apportioned to such parcel;

(4)] The balance to be retained by the land trust to pay the salaries and other expenses of such land trust and of its employees, incident to the administration of sections 141.210 to 141.810, including any expenditures authorized by section 141.760, as provided for in its annual budget;

[(5)] (3) Any funds in excess of those necessary to meet the expenses of the annual budget of the land trust in any fiscal year, and including a reasonable sum to carry over into the next fiscal year to assure that sufficient funds will be available to meet initial expenses for that next fiscal year, may be paid to the respective taxing authorities [and tax bill owners, if any, in the proportion that the principal amounts of the tax bills of each such party bears to the total principal amount of all the tax bills included in the original judgment relating to such parcel of real estate and in the order of their respective priorities. After deduction of all sums charged to each account for various expenses,] **which, at the time of the distribution, are taxing the real property from which the proceeds are being distributed. The distributions shall be in proportion to the amounts of the taxes levied on the properties by the taxing authorities;** distribution shall be made [to the respective taxing authorities and to tax bill owners having an interest in such parcel of real estate,] on January first and July first of each year, and at such other times as the land trustees in their discretion may determine.

Approved July 2, 2004

HB 978 [CCS#3 SS HS HCS HB 978]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Small Business Regulatory Fairness Board to serve as liaison between state agencies and small businesses.

AN ACT to repeal sections 324.010 and 536.010, RSMo, and to enact in lieu thereof seven new sections relating to small businesses.

SECTION

- A. Enacting clause.
- 324.010. No delinquent taxes, condition for renewal of certain professional licenses.
- 536.010. Definitions.
- 536.300. Proposed rules, effect on small business to be determined, exceptions — impact statement to be prepared, when, contents.
- 536.305. Small business regulatory fairness board established, members, terms, expenses, meetings.
- 536.310. Authority of board.
- 536.315. State agencies to consider board recommendations, response.
- 536.325. Waiver or reduction of administrative penalties, when — inapplicability, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 324.010 and 536.010, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 324.010, 536.010, 536.300, 536.305, 536.310, 536.315, and 536.325, to read as follows:

324.010. NO DELINQUENT TAXES, CONDITION FOR RENEWAL OF CERTAIN PROFESSIONAL LICENSES. — All governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to sections 209.319 to 209.339, RSMo, sections 214.270 to 214.516, RSMo, sections 256.010 to 256.453, RSMo, section 375.014, RSMo, sections 436.005 to 436.071, RSMo, and chapter 317, RSMo, and chapters 324 to 346, RSMo, shall provide the director of revenue with the name and Social Security number of each applicant for licensure with or licensee of such entities within one month of the date the application is filed or at least one month prior to the anticipated renewal of a licensee's license. If such licensee is delinquent

on any state taxes or has failed to file state income tax returns in the last three years, the director shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the licensee's license shall be [revoked] **suspended** within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. **The director of revenue shall, within ten business days of notification to the governmental entity issuing the professional license that the delinquency has been remedied or arrangements have been made to remedy such delinquency, send written notification to the licensee that the delinquency has been remedied.** Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.

536.010. DEFINITIONS.— For the purpose of this chapter:

(1) **"Affects small business", any requirement imposed upon a small business or minority small business through a state agency's proposed or adopted rule that will cause direct and significant economic burden upon a small business or minority small business;**

(2) "Agency" means any administrative officer or body existing under the constitution or by law and authorized by law or the constitution to make rules or to adjudicate contested cases;

(3) **"Board", the small business regulatory fairness board;**

[(2)] (4) "Contested case" means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing;

[(3)] (5) The term "decision" includes decisions and orders whether negative or affirmative in form;

[(4)] (6) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of an existing rule, but does not include:

(a) A statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof;

(b) A declaratory ruling issued pursuant to section 536.050, or an interpretation issued by an agency with respect to a specific set of facts and intended to apply only to that specific set of facts;

(c) An intergovernmental, interagency, or intraagency memorandum, directive, manual or other communication which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof;

(d) A determination, decision, or order in a contested case;

(e) An opinion of the attorney general;

(f) Those portions of staff manuals, instructions or other statements issued by an agency which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the state;

(g) A specification of the prices to be charged for goods or services sold by an agency as distinguished from a license fee, or other fees;

(h) A statement concerning only the physical servicing, maintenance or care of publicly owned or operated facilities or property;

(i) A statement relating to the use of a particular publicly owned or operated facility or property, the substance of which is indicated to the public by means of signs or signals;

(j) A decision by an agency not to exercise a discretionary power;

(k) A statement concerning only inmates of an institution under the control of the department of corrections and human resources or the division of youth services, students enrolled in an educational institution, or clients of a health care facility, when issued by such an agency;

(l) Statements or requirements establishing the conditions under which persons may participate in exhibitions, fairs or similar activities, managed by the state or an agency of the state;

(m) Income tax or sales forms, returns and instruction booklets prepared by the state department of revenue for distribution to taxpayers for use in preparing tax returns[.];

(7) **"Small business", a for-profit enterprise consisting of fewer than fifty full or part-time employees;**

[(5)] (8) "State agency" means each board, commission, department, officer or other administrative office or unit of the state other than the general assembly, the courts, the governor, or a political subdivision of the state, existing under the constitution or statute, and authorized by the constitution or statute to make rules or to adjudicate contested cases.

536.300. PROPOSED RULES, EFFECT ON SMALL BUSINESS TO BE DETERMINED, EXCEPTIONS — IMPACT STATEMENT TO BE PREPARED, WHEN, CONTENTS. — 1. Prior to submitting proposed rules for adoption, amendment, revision, or repeal, the state agency shall determine whether the proposed rulemaking affects small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking. This requirement shall not apply to emergency rulemaking pursuant to section 536.025 or to constitutionally authorized rulemaking pursuant to Article IV, Section 45 of the Missouri Constitution. This requirement shall be in addition to the fiscal note requirement of sections 536.200 to 536.210.

2. If the proposed rules affect small businesses, the state agency shall prepare a small business impact statement to be submitted to the secretary of state and the joint committee on administrative rules with the proposed rules. A copy of the proposed rules and the small business impact statement shall also be filed with the board on the same date as they are filed with the secretary of state. The statement shall provide a reasonable determination of the following:

(1) The methods the agency considered or used to reduce the impact on small businesses such as consolidation, simplification, differing compliance, or reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating techniques;

(2) How the agency involved small businesses in the development of the proposed rules;

(3) The probable monetary costs and benefits to the implementing agency and other agencies directly affected, including the estimated total amount the agency expects to collect from any additionally imposed fees and the manner in which the moneys will be used, if such costs are capable of determination;

(4) A description of the small businesses that will be required to comply with the proposed rules and how they may be adversely affected, except in cases where the state agency has filed a fiscal note that complies with all of the provisions of section 536.205; and

(5) In dollar amounts, the increase in the level of direct costs, such as fees or administrative penalties, and indirect costs, such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance if such costs are capable of determination, except in cases where the state agency has filed a fiscal note that complies with all of the provisions of section 536.205;

3. Any proposed rule that is required to have a small business impact statement but does not include such a statement shall be invalid and the secretary of state should not

publish the rule until such time as the statement is provided. If the state agency determines that its proposed rule does not affect small business, the state agency shall so certify this finding in the transmittal letter to the secretary of state, stating that it has determined that such proposed rule will not have an economic impact on small businesses and the secretary of state shall publish the rule.

4. Sections 536.300 to 536.310 shall not apply where the proposed rule is being promulgated on an emergency basis, where the rule is federally mandated, or where the rule substantially codifies existing federal or state law. Notwithstanding the provisions of this section, federally mandated regulations are subject to the federal Regulatory Flexibility Act as amended by the Small Business Regulatory and Enforcement Fairness Act of 1996, P.L. 96-354, as amended by P.L. 104.121. Any federally mandated regulations that do not comply with these acts shall be subject to this section.

536.305. SMALL BUSINESS REGULATORY FAIRNESS BOARD ESTABLISHED, MEMBERS, TERMS, EXPENSES, MEETINGS. — 1. There is hereby established the "Small Business Regulatory Fairness Board". The department of economic development shall provide staff support for the board.

2. The board shall be composed of nine members appointed in the following manner:

- (1) One member who is the chair of the minority business advocacy commission;
- (2) One member appointed by the president pro tempore of the senate;
- (3) One member appointed by the minority leader of the senate;
- (4) One member appointed by the speaker of the house of representatives;
- (5) One member appointed by the minority leader of the house of representatives;

and

- (6) Four members appointed by the governor.

3. Each member of the board, except for the public members and the chair of the minority business advocacy commission, shall be a current or former owner or officer of a small business. All members of the board shall represent a variety of small businesses, both rural and urban, and from a variety of geographical areas of this state, provided that no more than two members shall represent the same type of small business.

4. Members of the board shall serve a term of three years and may be reappointed at the conclusion of the term. No member shall serve more than three consecutive terms. Appointments shall be made so that one-third of the membership of the board shall terminate each year. The governor shall appoint the initial chairperson of the board and a majority of the board shall elect subsequent chairpersons. The chairperson shall serve as chair for a term of not more than two years.

5. Members of the board shall serve without compensation, but may be reimbursed for reasonable and necessary expenses relating to their performance of duties, according to the rules and regulations of travel issued by the office of administration. Members will be required to submit an expense account form in order to obtain reimbursement for expenses incurred.

6. The board shall meet as often as necessary, as determined by the chairperson of the board. All meetings of the board will be conducted in accordance with the governmental bodies and records act, chapter 610, RSMo, including closed sessions. Notice will be posted and will be provided to the joint committee on administrative rules. Minutes of the meetings shall be provided to all members, the office of the governor, and the joint committee on administrative rules.

536.310. AUTHORITY OF BOARD. — 1. The board may:

- (1) Provide state agencies with input regarding rules that adversely affect small businesses;
- (2) Solicit input and conduct hearings from small business owners and state agencies regarding any rules proposed by a state agency; and

(3) Provide an evaluation report to the governor and the general assembly, including any recommendations and evaluations of state agencies regarding regulatory fairness for Missouri's small businesses. The report shall include comments from small businesses, state agency responses, and a summary of any public testimony on rules brought before the board for consideration.

2. In any inquiry conducted by the board because of a request from a small business owner, the board may make recommendations to the state agency. If the board makes recommendations, such recommendations shall be based on any of the following grounds:

(1) The rule creates an undue barrier to the formation, operation, and expansion of small businesses in a manner that significantly outweighs the rule's benefits to the public; or

(2) New or significant economic information indicates the proposed rule would create an undue impact on small businesses; or

(3) Technology, economic conditions, or other relevant factors justifying the purpose for the rule has changed or no longer exists; or

(4) If the rule was adopted after August 28, 2004, whether the actual effect on small businesses was not reflected in or significantly exceeded the small business impact statement submitted prior to the adoption of the rules.

536.315. STATE AGENCIES TO CONSIDER BOARD RECOMMENDATIONS, RESPONSE. — Any state agency receiving recommendations from the board shall promptly consider such recommendations and may file a response with the board within sixty days of receiving the board's recommendations. If the state agency determines that no action shall be taken on the board's recommendations, the agency should explain its reasons for its determination. If the state agency determines that the board's recommendations merit adoption, amendment or repeal of a rule, the agency should indicate this in its response.

536.325. WAIVER OR REDUCTION OF ADMINISTRATIVE PENALTIES, WHEN — INAPPLICABILITY, WHEN. — 1. Any state agency authorized to assess administrative penalties or administrative fines upon a small business may consider waiving or reducing any administrative penalty or administrative fine for a violation of any statute, ordinance, or rules by a small business under the following conditions:

(1) The small business corrects the violation within thirty days after receipt of a notice of violation or citation;

(2) The violation was unintentional or the result of excusable neglect;

(3) The violation was the result of an excusable misunderstanding of a state agency's interpretation of a rule; or

(4) The small business self-identifies the violation.

2. Subsection 1 of this section shall not apply when:

(1) A small business fails to exercise good faith in complying with the statute, ordinance, or rule;

(2) A violation involves willful or criminal conduct;

(3) The violation is deemed by the state agency to be egregious;

(4) A violation results in serious health, safety, or environmental impact;

(5) The penalty or fine is assessed pursuant to a federal law or regulation for which no waiver or reduction is authorized by the federal law or regulation; or

(6) There is a continuing pattern of similar violations by the small business.

Approved June 30, 2004

HB 980 [SS#2 HCS HB 980]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires a regulatory impact report for certain environmental rulemaking processes.

AN ACT to amend chapter 640, RSMo, by adding thereto three new sections relating to environmental regulation.

SECTION

- A. Enacting clause.
- 640.015. Environmental conditions or standards, rules to cite specific law or authority relied upon — regulatory impact report required, contents, procedure, not required when — section not applicable, when.
- 640.018. Permit restrictions by department of natural resources prohibited in absence of statutory authority — permit issuance procedures — denial of permit, basis to be detailed — approval of permit not to be altered for one year, when.
 - 1. Federal Clean Water Act and federal Safe Drinking Water Act, tax refunds in violation of — department of natural resources to identify other appropriated funds to department for transfer to the state general revenue fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 640, RSMo, is amended by adding thereto three new sections, to be known as sections 640.015, 640.018, and 1, to read as follows:

640.015. ENVIRONMENTAL CONDITIONS OR STANDARDS, RULES TO CITE SPECIFIC LAW OR AUTHORITY RELIED UPON — REGULATORY IMPACT REPORT REQUIRED, CONTENTS, PROCEDURE, NOT REQUIRED WHEN — SECTION NOT APPLICABLE, WHEN. — 1. All provisions of the law to the contrary notwithstanding, all rules that prescribe environmental conditions or standards promulgated by the department of natural resources, a board or a commission, pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, shall cite the specific section of law or legal authority. The rule shall also be based on the regulatory impact report provided in this section.

2. The regulatory impact report required by this section shall include:

- (1) A report on the peer-reviewed scientific data used to commence the rulemaking process;
 - (2) A description of persons who will most likely be affected by the proposed rule, including persons that will bear the costs of the proposed rule and persons that will benefit from the proposed rule;
 - (3) A description of the environmental and economic costs and benefits of the proposed rule;
 - (4) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue;
 - (5) A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction, which includes both economic and environmental costs and benefits;
 - (6) A determination of whether there are less costly or less intrusive methods for achieving the proposed rule;
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(7) A description of any alternative method for achieving the purpose of the proposed rule that were seriously considered by the department and the reasons why they were rejected in favor of the proposed rule;

(8) An analysis of both short-term and long-term consequences of the proposed rule;

(9) An explanation of the risks to human health, public welfare, or the environment, addressed by the proposed rule;

(10) The identification of the sources of scientific information used in evaluating the risk and a summary of such information;

(11) A description and impact statement of any uncertainties and assumptions made in conducting the analysis on the resulting risk estimate;

(12) A description of any significant countervailing risks that may be caused by the proposed rule; and

(13) The identification of at least one, if any, alternative regulatory approaches that will produce comparable human health, public welfare, or environmental outcomes.

3. The department, board, or commission shall develop the regulatory impact report required by this section using peer reviewed and published data or when the peer-reviewed data is not reasonably available, a written explanation shall be filed at the time of the rule promulgation notice explaining why the peer-reviewed data was not available to support the regulation. If the peer-reviewed data is not available, the department must provide all scientific references and the types, amount, and sources of scientific information that was used to develop the rule at the time of the rule promulgation notice.

4. The department, board, or commission shall publish in at least one newspaper of general circulation, qualified pursuant to chapter 493, RSMo, with an average circulation of twenty thousand or more and on the department, board, or commission website a notice of availability of any regulatory impact report conducted pursuant to this section and shall make such assessments and analyses available to the public by posting them on the department, board, or commission website. The department, board, or commission shall allow at least sixty days for the public to submit comments and shall post all comments and respond to all significant comments prior to promulgating the rule.

5. The department, board, or commission shall file a copy of the regulatory impact report with the joint committee on administrative rules concurrently with the filing of the proposed rule pursuant to section 536.024, RSMo.

6. If the department, board, or commission fails to conduct the regulatory impact report as required for each proposed rule pursuant to this section, such rule shall be void unless the written explanation delineating why the peer-reviewed data was not available has been filed at the time of the rule promulgation notice.

7. Any other provision of this section to the contrary notwithstanding, the department, board, or commission referenced in subsection 1 of this section may adopt a rule, without conducting a regulatory impact report if the director of the department determines that immediate action is necessary to protect human health, public welfare, or the environment; provided, however, in doing so, the department, board, or commission shall be required to provide written justification as to why it deviated from conducting a regulatory impact report and shall complete the regulatory impact report within one hundred eighty days of the adoption of the rule.

8. The provisions of this section shall not apply if the department adopts environmental protection agency rules and rules from other applicable federal agencies without variance.

640.018. PERMIT RESTRICTIONS BY DEPARTMENT OF NATURAL RESOURCES PROHIBITED IN ABSENCE OF STATUTORY AUTHORITY — PERMIT ISSUANCE PROCEDURES — DENIAL OF PERMIT, BASIS TO BE DETAILED — APPROVAL OF PERMIT NOT TO BE ALTERED

FOR ONE YEAR, WHEN. — 1. The department of natural resources shall not place in any permit any requirement, provision, stipulation, or any other restriction which is not prescribed or authorized by regulation or statute, unless the requirement, provision, stipulation, or other restriction is pursuant to the authority addressed in statute.

2. Prior to submitting a permit to public comment the department of natural resources shall deliver such permit to the permit applicant at the contact address on the permit application for final review. In the interest of expediting permit issuance, permit applicants may waive the opportunity to review draft permits prior to public notice. The permit applicant shall have ten days to review the permit for errors. Upon receipt of the applicant's review of the permit, the department of natural resources shall correct the permit where nonsubstantive drafting errors exist. The department of natural resources shall make such changes within ten days and submit the permit for public comment. If the permit applicant is not provided the opportunity to review permits prior to submission for public comment, the permit applicant shall have the authority to correct drafting errors in their permits after they are issued without paying any fee for such changes or modifications.

3. In any matter where a permit is denied by the department of natural resources pursuant to authorities granted in this chapter and chapters 260, 278, 319, 444, 643, and 644, RSMo, the hazardous waste management commission in chapter 260, RSMo, the state soil and water districts commission in chapter 278, RSMo, the land reclamation commission in chapter 444, RSMo, the safe drinking water commission in this chapter, the air conservation commission in chapter 643, RSMo, and the clean water commission in chapter 644, RSMo, such denial shall clearly state the basis for such denial.

4. Once a permit or action has been approved by the department, the department shall not revoke or change, without written permission from the permittee, the decision for a period of one year or unless the department determines that immediate action is necessary to protect human health, public welfare, or the environment.

SECTION 1. FEDERAL CLEAN WATER ACT AND FEDERAL SAFE DRINKING WATER ACT, TAX REFUNDS IN VIOLATION OF — DEPARTMENT OF NATURAL RESOURCES TO IDENTIFY OTHER APPROPRIATED FUNDS TO DEPARTMENT FOR TRANSFER TO THE STATE GENERAL REVENUE FUND. — 1. If a refund mandated under article X, section 18, of the Missouri Constitution from the following funds:

(1) The water and wastewater loan fund established pursuant to section 644.122, RSMo;

(2) The water pollution permit fee subaccount of the natural resources protection fund established in section 640.220;

(3) The water and wastewater loan revolving funds; or

(4) Any fund established by the office of administration for the sole purpose of receiving and distributing state match bond proceeds for the department of natural resources' state revolving fund programs established pursuant to the federal Clean Water Act, the federal Safe Drinking Water Act, or any federal regulation authorized under either federal act, would violate the federal Clean Water Act, the federal Safe Drinking Water Act, or any federal regulation authorized under either federal act, the department of natural resources shall identify an equal amount from other funds appropriated to the department.

2. The commissioner of administration shall transfer the funds identified by the department, that would otherwise be transferred from the funds identified in subsection 1 of this section, to the state general revenue fund for any refund that occurs after August 28, 2004.

Approved July 9, 2004

HB 985 [HCS HB 985]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises laws on the practice of real estate.

AN ACT to repeal sections 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, and 339.800, RSMo, and to enact in lieu thereof seventeen new sections relating to real estate agents, with penalty provisions.

SECTION

- A. Enacting clause.
- 339.010. Definitions — applicability of chapter.
- 339.020. Brokers and salespersons, unlawful to act without license.
- 339.030. Business entities may be licensed, when, fee.
- 339.040. Licenses granted to whom — examination — qualifications — fee — temporary broker's license, when — renewal, requirements.
- 339.060. Fees, amount, set how — term of licenses.
- 339.100. Investigation of certain practices, procedure — subpoenas — formal complaints — revocation or suspension of licenses — digest may be published.
- 339.105. Separate bank escrow accounts required — service charges for account may be made by personal deposit by broker, amount allowed.
- 339.120. Commission, created — members, qualifications, terms, compensation — powers and duties — rulemaking authority, procedure.
- 339.130. Legal status of commission.
- 339.150. No fee to be paid to unlicensed person — exception when broker refuses to pay for services rendered knowing the person was unlicensed, effect.
- 339.160. Real estate brokers and salespersons may not bring legal action for compensation unless licensed.
- 339.170. Penalty for violation.
- 339.180. Practice without a license — endangering welfare of others — injunction, procedure.
- 339.710. Definitions.
- 339.760. Written agreement, adoption by designated broker, scope.
- 339.780. Brokerage services, written agreements for, parties to, authorizations by designated broker — written agreements, limited agency, single agent, dual agent or subagent.
- 339.800. Compensation of designated broker, paid by whom, sharing compensation — payment establishing agency — agreement by seller or buyer on sharing compensation.
- 339.600. Definitions — exempt businesses and persons acting as escrow agent for real estate.
- 339.603. Registration with commission required to act as escrow agent — injunction ordered for unlawfully engaging in escrow activities.
- 339.605. Registration qualifications — application forms furnished by commission — grounds for refusal of registration.
- 339.606. Rules authorized — duty of commission — fees, amount, how set.
- 339.607. Renewal every two years — renewal fee.
- 339.608. Escrow agent administration fund created — fees collected by commission deposited in fund — purpose of fund — lapse into general revenue, prohibited.
- 339.610. Third-party expenses deposited by escrow agent, when — funds in escrow account to be expended, when.
- 339.612. Audit of escrow accounts and records — escrow agent liable to intended payee for misused funds — powers of commission to enforce.
- 339.614. Audit records to be available to escrow agent, not open to public, exception.
- 339.617. Investigation and subpoena powers of commission — administrative hearing procedure — violations, registration cancellation, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710,

339.760, 339.780, and 339.800, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.710, 339.760, 339.780, and 339.800, to read as follows:

339.010. DEFINITIONS—APPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, association, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, [as a whole or partial vocation,] does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
- (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
- (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned[, as a whole or partial vocation]. The provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. The term "commission" as used in sections 339.010 to 339.180 **and sections 339.710 to 339.860** means the Missouri real estate commission.

4. "Real estate" for the purposes of sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and [whether] the real estate is situated in this state [or elsewhere].

5. The provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall not apply to:

- (1) Any person, partnership, **association**, or corporation who as owner [or], lessor, **or lessee** shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof, provided such owner [or], lessor, **or lessee** is not engaged in the real estate business [as a vocation];
 - (2) Any licensed attorney-at-law;
 - (3) An auctioneer employed by the owner of the property;
 - (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;
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(5) Any person employed or retained to manage real property by, for, or on behalf of, the agent or the owner, of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

- (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;
- (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;
- (c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;
- (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;
- (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper [or], magazine [or], periodical [of general circulation], or **Internet site** whereby the advertising of real estate is incidental to [the] **its** operation [of that publication] or to any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission;

(10) Any developer selling Missouri land owned by the developer [if such developer has on file with the commission a certified copy of a currently effective statement of record on file with the Office of Interstate Land Sales pursuant to Sections 1704 through 1706 of Title 15 of the United States Code or a current statement from the Office of Interstate Land Sales of the United States Department of Housing and Urban Development approving the documentation (together with a copy of such documentation) submitted to that office with respect to real estate falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code];

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near

the association's neighborhood, including any publication of such information in a newsletter, [web] **Internet** site, or other medium.

339.020. BROKERS AND SALESPERSONS, UNLAWFUL TO ACT WITHOUT LICENSE. — It shall be unlawful for any person, partnership, association, or corporation, foreign or domestic, to act as a real estate broker or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

339.030. BUSINESS ENTITIES MAY BE LICENSED, WHEN, FEE. — A corporation, partnership, or association shall be granted a license when individual licenses have been issued to every member, partner or officer of such partnership, association, or corporation who actively participates in its brokerage business and to every person who acts as a salesperson for such partnership, association, or corporation and when the required fee is paid.

339.040. LICENSES GRANTED TO WHOM — EXAMINATION — QUALIFICATIONS — FEE — TEMPORARY BROKER'S LICENSE, WHEN — RENEWAL, REQUIREMENTS. — 1. Licenses shall be granted only to persons who present, and corporations, associations, or partnerships whose officers, associates, or partners present, satisfactory proof to the commission that they:

- (1) Are persons of good moral character; and
- (2) Bear a good reputation for honesty, integrity, and fair dealing; and
- (3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 **and sections 339.710 to 339.860**, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least one year immediately preceding the date of application, or, in lieu thereof, shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. [The commission shall require] **The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.**

8. Every active broker, salesperson, officer [or], partner [to present upon license renewal], **or associate shall provide upon request to the commission** evidence that during the two years preceding he **or she** has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.

[8.] 9. Each entity that provides continuing education required under the provisions of subsection [7] 8 of this section may make available [videotapes and audiotapes of] instruction courses that the entity conducts **through means of distance delivery**. The commission shall by rule set standards for [the production of] such [taped] courses[, which may include the requirement that individuals purchasing such tapes also purchase an accompanying written study document. The commission shall authorize individuals required to complete instruction under the provisions of this subsection to fulfill such continuing education requirements by utilizing such videotape and audiotape courses]. The commission may by regulation require the individual completing such [videotape or audiotape] **distance delivered** course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the [taped] course and approved by the commission.

[9.] 10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed partners [or], officers, **or associates** of a real estate partnership [or], corporation, **or association** whereby the affairs of the broker, partnership, or corporation cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership or corporation under the supervision of the commission.

339.060. FEES, AMOUNT, SET HOW — TERM OF LICENSES. — 1. The commission shall set the amount of the fees which sections 339.010 to 339.180 **and sections 339.710 to 339.860** authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.010 to 339.180 **and sections 339.710 to 339.860**.

2. Every license granted under sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall be renewed each licensing period and the commission shall issue a new license upon receipt of the [written] **properly completed** application of the applicant and the required renewal fee.

339.100. INVESTIGATION OF CERTAIN PRACTICES, PROCEDURE — SUBPOENAS — FORMAL COMPLAINTS — REVOCATION OR SUSPENSION OF LICENSES — DIGEST MAY BE PUBLISHED. — 1. The commission may, upon its own motion, and shall upon **receipt of a** written complaint filed by any person, investigate any [business transaction] **real estate-related activity** of a [person, partnership or corporation] **licensee** licensed under sections 339.010 to 339.180 **and sections 339.710 to 339.860 or an individual or entity acting as or representing themselves as a real estate licensee**. In conducting such investigation, **if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker**. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability [that the licensee has performed or attempted to perform any act or practice declared unlawful pursuant to] **of a violation of** sections 339.010 to 339.180 **and sections 339.710 to 339.860**. [In conducting such a hearing.] The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to

come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by [law when the commission believes there is a probability that a licensee has performed or attempted to perform any] **the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination** of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his **or her** personal or other business accounts, all moneys belonging to others entrusted to him **or her** while acting as a real estate broker[, or as escrow agent,] or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his **or her** business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his **or her** possession, which belongs to others;

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to **timely** deliver[, immediately at the time of signing,] a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his **or her** supervision or are within his **or her** control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he **or she** may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he **or she** acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 **and sections 339.710 to 339.860**;

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself **or herself** or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express [knowledge and] **written** consent of [that] **the** broker[, or] **with whom associated**;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated **at the time the commission or valuable consideration was earned**;

[(12)] (13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers **or clients** to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale

or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

[(13)] **(14)** Placing a sign on or advertising any property offering it for sale or rent without the **written** consent of the owner or his **or her** duly authorized agent;

[(14)] **(15)** Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 **and sections 339.710 to 339.860**, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860**;

[(15)] **(16)** Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

[(16)] **(17)** Failure to [submit] **timely inform seller of** all written [bona fide] offers [to a seller when such offers are received prior to the seller accepting an offer in writing and until the licensee has knowledge of such acceptance] **unless otherwise instructed in writing by the seller**;

[(17)] **(18)** Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

[(18)] **(19)** Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, [or] demonstrates bad faith or [gross] incompetence, **misconduct, or gross negligence**;

[(19)] **(20)** Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 **and sections 339.710 to 339.860** granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

[(20)] **(21)** Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 **and sections 339.710 to 339.860**;

[(21)] **(22)** Been finally adjudged insane or incompetent by a court of competent jurisdiction;

[(22)] **(23)** Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 **and sections 339.710 to 339.860** who is not registered and currently eligible to practice under sections 339.010 to 339.180 **and sections 339.710 to 339.860**;

[(23)] **(24)** Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

339.105. SEPARATE BANK ESCROW ACCOUNTS REQUIRED — SERVICE CHARGES FOR ACCOUNT MAY BE MADE BY PERSONAL DEPOSIT BY BROKER, AMOUNT ALLOWED. — 1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank account in a financial institution which shall be designated an escrow or trust account. This requirement includes funds in which he or she may have some future interest or claim. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account.

2. Each broker shall notify the commission [of the name] of his or her intent not to maintain an escrow account, or the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission. A broker shall notify the commission within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

3. In conjunction with each escrow or trust account a broker shall maintain books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be provided to the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

4. Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595, RSMo. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.

5. A broker shall not be entitled to any money or other money paid to him or her in connection with any real estate sales transaction as part or all of his or her commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

6. When, through investigations or otherwise, the commission has reasonable cause to believe that a licensee has acted, is acting or is about to act in violation of this section, the commission may, through the attorney general or any assistants designated by the attorney general, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.

7. Any such suit shall be commenced in either the county in which the defendant resides or in the county in which the defendant has acted, is acting or is about to act in violation of this section.

8. In such proceeding, the court shall have power to issue such temporary restraining or injunction orders, without bond, which are necessary to protect the public interest. Any action brought under this section shall be in addition to and not in lieu of any other provisions of this chapter. In such action, the commission or the state need not allege or prove that there is no adequate remedy at law or that any individual has suffered any economic injury as a result of the activity sought to be enjoined.

339.120. COMMISSION, CREATED — MEMBERS, QUALIFICATIONS, TERMS, COMPENSATION — POWERS AND DUTIES — RULEMAKING AUTHORITY, PROCEDURE. — 1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their

appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of the members of the commission shall be for five years, and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five Realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**. Each member of the commission shall receive as compensation an amount set by the commission not to exceed [fifty] **seventy-five** dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner for cause.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860** or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180 **and sections 339.710 to 339.860**, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860**. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The commission shall employ such board personnel, as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, as it shall deem necessary to discharge the duties imposed by the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

339.130. LEGAL STATUS OF COMMISSION. — The commission may sue and be sued in its official name, and shall have a seal which shall be affixed to [all licenses,] certified copies of

records and papers on file, and to such other instruments as the commission may direct, and all courts shall take judicial notice of such seal. Copies of records and proceedings of the commission, and of all papers on file in its office, certified under the said seal shall be received as evidence in all courts of record. The office of the commission shall be at Jefferson City.

339.150. NO FEE TO BE PAID TO UNLICENSED PERSON — EXCEPTION WHEN BROKER REFUSES TO PAY FOR SERVICES RENDERED KNOWING THE PERSON WAS UNLICENSED, EFFECT. — 1. No real estate broker shall knowingly employ or engage any person to perform any service to the broker for which licensure as a real estate broker or a real estate sales person is required pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860**, unless such a person is a licensed real estate salesperson or a licensed real estate broker as required by section 339.020, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri. Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

339.160. REAL ESTATE BROKERS AND SALESPERSONS MAY NOT BRING LEGAL ACTION FOR COMPENSATION UNLESS LICENSED. — No person, partnership, corporation, or association engaged within this state in the business or acting in the capacity of a real estate broker or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, corporation, or association was a licensed real estate broker or salesperson at the time when the alleged cause of action arose.

339.170. PENALTY FOR VIOLATION. — Any person or corporation knowingly violating any provision of sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or member or agent of a partnership or association, who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180 **and sections 339.710 to 339.860**, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

339.180. PRACTICE WITHOUT A LICENSE — ENDANGERING WELFARE OF OTHERS — INJUNCTION, PROCEDURE. — 1. It shall be unlawful for any person **or entity** not licensed under

this chapter to perform any act for which a real estate [broker or salesperson] license is required. Upon application by the [board] **commission**, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person **or entity** from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a [certificate of registration or authority,] permit or license is required by this chapter upon a showing that such acts or practices were performed or offered to be performed without a [certificate of registration or authority,] permit or license; or

(2) Engaging in any practice or business authorized by a [certificate of registration or authority,] permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any [resident of this state or client or patient of the licensee] **person with, or who is considering obtaining, a legal interest in real property in this state.**

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

339.710. DEFINITIONS. — For purposes of sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the [physical condition of the] property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

- (a) Environmental hazards affecting the property;
- (b) Physical condition of the property which adversely affects the value of the property;
- (c) Material defects in the property;
- (d) Material defects in the title to the property;
- (e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold,

leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

(8) "Commission", the Missouri real estate commission;

(9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

(10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with [a] the licensee;

(11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

(12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker;

(13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

(14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

(15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

(16) "Licensee", a real estate broker or salesperson as defined in section 339.010;

(17) "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

(18) "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

(19) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not

more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

(20) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

(21) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(22) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates.

Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.760. WRITTEN AGREEMENT, ADOPTION BY DESIGNATED BROKER, SCOPE. — [1.]

Every designated broker **who has affiliated licensees** shall adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities.

[2. A designated broker shall not be required to offer or engage in more than one of the brokerage relationships enumerated in section 339.720.]

339.780. BROKERAGE SERVICES, WRITTEN AGREEMENTS FOR, PARTIES TO, AUTHORIZATIONS BY DESIGNATED BROKER — WRITTEN AGREEMENTS, LIMITED AGENCY, SINGLE AGENT, DUAL AGENT OR SUBAGENT. — 1. All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may

authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

3. Before or while engaging in any acts enumerated in section 339.010, except ministerial acts defined in section 339.710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339.740 and the terms of compensation [and shall specify whether an offer of subagency may be made to any other designated broker].

4. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a dual agent shall enter into a written agreement with the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The agreement shall include a licensee's duties and responsibilities specified in section 339.750 and the terms of compensation.

5. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a subagent shall enter into a written agreement with the designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client. If a designated broker has made an appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such appointment may enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.

6. A designated broker who intends to act as a transaction broker and who expects to receive compensation from the party he or she assists shall enter into a written transaction brokerage agreement with such party or parties contracting for the broker's service. The transaction brokerage agreement shall include a licensee's duties and responsibilities specified in section 339.755 and the terms of compensation.

7. Nothing contained in this section shall prohibit the public from entering into written contracts with any broker which contain duties, obligations, or responsibilities which are in addition to those specified in this section.

339.800. COMPENSATION OF DESIGNATED BROKER, PAID BY WHOM, SHARING COMPENSATION — PAYMENT ESTABLISHING AGENCY — AGREEMENT BY SELLER OR BUYER ON SHARING COMPENSATION. — 1. In any real estate transaction, the designated broker's compensation may be paid by the seller, the landlord, the buyer, the tenant, or a third party or by sharing the compensation between designated brokers.

2. Payment of compensation by itself shall not establish an agency relationship or transaction brokerage relationship between the party who paid the compensation and the designated broker or any affiliated licensee.

3. A seller or landlord may agree that a designated broker may share with another designated broker the compensation paid by the seller or landlord.

4. A buyer or tenant may agree that a designated broker may share with another designated broker the compensation paid by the buyer or tenant.

5. A designated broker may be compensated by more than one party for services in a transaction with the knowledge of all the parties at or before the time of entering into a written contract to buy, sell, or lease.

6. Nothing contained in this section shall relieve the licensee from the requirement of obtaining a written agreement for brokerage services or other written agreement addressing compensation.

[339.600. DEFINITIONS — EXEMPT BUSINESSES AND PERSONS ACTING AS ESCROW AGENT FOR REAL ESTATE. — 1. As used in sections 339.600 to 339.610, the following terms mean:

- (1) "Commission", the Missouri real estate commission;
- (2) "Escrow agent", any person, partnership, association or corporation, foreign or domestic, who performs any of the following functions: closings or settlements or any function related thereto in sales, exchanges or other transfers of real property.
2. A person or entity who meets the definition of escrow agent as provided in subsection 1 of this section is exempt from the provisions of sections 339.600 to 339.610 if such person is:
 - (1) A person or entity doing business under the laws of this state or the United States as a bank, trust company, savings and loan association, credit union, commercial or consumer finance company, industrial loan company, insurance company or title insurance company or title insurance agency;
 - (2) An attorney at law;
 - (3) A person or entity licensed pursuant to this chapter rendering services in the performance of his or her duties as a real estate broker or salesperson;
 - (4) A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or the United States Veterans' Administration or the Government National Mortgage Association or the United States Department of Housing and Urban Development or a successor of any of such agencies or entities, as an approved seller or servicer; or
 - (5) The United States, the state of Missouri or any state, any political subdivision of this state or any agency, division or corporate instrumentality thereof.]

[339.603. REGISTRATION WITH COMMISSION REQUIRED TO ACT AS ESCROW AGENT — INJUNCTION ORDERED FOR UNLAWFULLY ENGAGING IN ESCROW ACTIVITIES. — 1. It is unlawful for any person, partnership, association or corporation, foreign or domestic, to act as an escrow agent, or to advertise or attempt to act as such without being properly registered with the commission.

2. Upon application by the commission and upon proof by a preponderance of the evidence, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from unlawfully engaging or attempting to engage in the activities identified in sections 339.600 to 339.610.]

[339.605. REGISTRATION QUALIFICATIONS — APPLICATION FORMS FURNISHED BY COMMISSION — GROUNDS FOR REFUSAL OF REGISTRATION. — 1. A person, partnership, association or corporation, incorporated pursuant to the laws of Missouri, may be registered as an escrow agent pursuant to sections 339.600 to 339.610, if such person, partners of the partnership, members of the association or officers of the corporation are at least eighteen years of age, of good moral character and are competent to transact the business of an escrow agent in such manner as to safeguard the interest of the public. The commission shall require proof that such persons meet the qualifications as provided in this subsection.

2. A corporation, partnership or association may be registered if every partner of the partnership, every member of the association, or every officer of the corporation who actively participates in its escrow business has been registered and the corporation, partnership or association has paid all the required fees.

3. Applications for registration shall be submitted in writing on forms furnished by the commission and accompanied by such information and recommendations as the commission may require.

4. The commission may refuse to register any person, partnership, association or corporation if the person, partner, member or a direct or indirect controlling stockholder has been found guilty of, or pleaded guilty to, stealing, forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or any similar offense.]

[339.606. RULES AUTHORIZED — DUTY OF COMMISSION — FEES, AMOUNT, HOW SET. — The commission may promulgate rules and regulations and perform all duties necessary for carrying out the provisions of sections 339.600 to 339.610. The commission shall set the amount of the fees which are authorized pursuant to sections 339.600 to 339.610 by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.600 to 339.610.]

[339.607. RENEWAL EVERY TWO YEARS — RENEWAL FEE. — Each registration granted pursuant to sections 339.600 to 339.610 shall be renewed every two years and the commission shall issue a new registration upon receipt of a proper renewal application and the required renewal fee.]

[339.608. ESCROW AGENT ADMINISTRATION FUND CREATED — FEES COLLECTED BY COMMISSION DEPOSITED IN FUND — PURPOSE OF FUND — LAPSE INTO GENERAL REVENUE, PROHIBITED. — The fees collected pursuant to the provisions of sections 339.600 to 339.610 shall be collected by the Missouri real estate commission and shall be sent to the director of the department of revenue for deposit in the state treasury in the "Escrow Agent Administration Fund" which is hereby created. The commission shall administer the fund and shall use the moneys in the fund solely for the administration and enforcement of sections 339.600 to 339.610. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the fund at the end of the biennium shall not be transferred to the general revenue fund, but shall remain in the escrow agent administration fund.]

[339.610. THIRD-PARTY EXPENSES DEPOSITED BY ESCROW AGENT, WHEN — FUNDS IN ESCROW ACCOUNT TO BE EXPENDED, WHEN. — Any funds received by an escrow agent from any person that are to be used for third-party expenses shall be deposited no later than five banking days after receipt in an escrow account in any federally insured bank, savings and loan association or credit union. The funds in such escrow account shall be expended for the intended use by the escrow agent within ninety days after the obligations of the third party have been completed.]

[339.612. AUDIT OF ESCROW ACCOUNTS AND RECORDS — ESCROW AGENT LIABLE TO INTENDED PAYEE FOR MISUSED FUNDS — POWERS OF COMMISSION TO ENFORCE. — The commission or its designated agent may inspect and audit the escrow accounts or accounting records of any escrow agent at any time during normal business hours to determine if escrow funds are being expended and disbursed in a timely fashion and for the intended use. If the commission determines that such escrow funds have been used for any purpose other than the intended purposes, the escrow agent is liable to the intended payee of the funds for any misappropriated funds and the Missouri real estate commission shall cause legal proceedings to be held in any court of competent jurisdiction to enforce the provisions of this section and sections 339.610, 339.614, and 339.617. The commission's authority to instigate legal proceedings to enforce the provisions of this section is in addition to the authority to file a complaint with the administrative hearing commission.]

[339.614. AUDIT RECORDS TO BE AVAILABLE TO ESCROW AGENT, NOT OPEN TO PUBLIC, EXCEPTION. — The records of any inspection or audit made pursuant to the authority in section 339.612 shall be made available to the escrow agent and the parties to the transaction but shall not be considered open to the public unless public money is directly involved or a court of competent jurisdiction orders that such records be opened.]

[339.617. INVESTIGATION AND SUBPOENA POWERS OF COMMISSION — ADMINISTRATIVE HEARING PROCEDURE — VIOLATIONS, REGISTRATION CANCELLATION, WHEN. — 1. The commission may, upon its own motion or upon a written complaint filed by any person, investigate any business transaction, regulated by the provisions of sections 339.600 to 339.610, of any person, partnership, association or corporation registered pursuant to the provisions of sections 339.600 to 339.610. The commission may use all investigatory and subpoena powers provided in section 339.100 in investigating such business transaction. The commission may file a complaint with the administrative hearing commission and the proceedings shall be conducted as provided in chapter 621, RSMo. If the administrative hearing commission finds that the escrow agent is not in compliance with sections 339.610 to 339.617 or is operating in an unsafe or unsound manner, the commission may cancel the registration of such escrow agent. If the registration of any escrow agent is canceled pursuant to this subsection, such escrow agent may not accept any referral of business which is regulated by the provisions of sections 339.600 to 339.610.

2. No real estate licensee may knowingly refer escrow or real estate closing business to any escrow agent which does not hold a current registration pursuant to sections 339.600 to 339.610.]

Approved July 2, 2004

HB 988 [HCS HB 988]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases number of county political party committee members in Jackson County.

AN ACT to repeal section 115.607, RSMo, and to enact in lieu thereof one new section relating to county political party committee representation.

SECTION

A. Enacting clause.

115.607. County committee, eligibility requirements, selection of.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 115.607, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.607, to read as follows:

115.607. COUNTY COMMITTEE, ELIGIBILITY REQUIREMENTS, SELECTION OF. — 1. No person shall be elected or shall serve as a member of a county committee who is not, for one year next before the person's election, both a registered voter of and a resident of the county and the committee district from which the person is elected if such district shall have been so long established, and if not, then of the district or districts from which the same shall have been taken. Except as provided in subsections 2, 3, 4, 5, and 6 of this section, the membership of a county committee of each established political party shall consist of a man and a woman elected from each township or ward in the county.

2. In each county of the first classification containing the major portion of a city which has over three hundred thousand inhabitants, two members of the committee, a man and a woman, shall be elected from each ward in the city. Any township entirely contained in the city shall have no additional representation on the county committee. The election authority for the county shall, not later than six months after the decennial census has been reported to the President of

the United States, divide the most populous township outside the city into eight subdistricts of contiguous and compact territory and as nearly equal in population as practicable. The subdistricts shall be numbered from one upward consecutively, which numbers shall, insofar as practicable, be retained upon reapportionment. Two members of the county committee, a man and a woman, shall be elected from each such subdistrict. **Six members of the committee, three men and three women, shall be elected from the second and third most populous townships outside the city.** Four members of the committee, two men and two women, shall be elected from [each] **the other [township] townships** outside the city.

3. In any city which has over three hundred thousand inhabitants, the major portion of which is located in a county with a charter form of government, for the portion of the city located within such county and notwithstanding section 82.110, RSMo, it shall be the duty of the election authority, not later than six months after the decennial census has been reported to the President of the United States, to divide such cities into not less than twenty-four nor more than twenty-five wards after each decennial census. Wards shall be so divided that the number of inhabitants in any ward shall not exceed any other ward of the city and within the same county, by more than five percent, measured by the number of the inhabitants determined at the preceding decennial census.

4. In each county of the first classification containing a portion, but not the major portion, of a city which has over three hundred thousand inhabitants, ten members of the committee, five men and five women, shall be elected from the district of each state representative wholly contained in the county in the following manner: Within six months after each legislative reapportionment, the election authority shall divide each legislative district wholly contained in the county into five committee districts of contiguous territory as compact and as nearly equal in population as may be; two members of the committee, a man and a woman, shall be elected from each committee district. The election authority shall divide the area of the county located within legislative districts not wholly contained in the county into similar committee districts; two members of the committee, a man and a woman, shall be elected from each committee district.

5. In each city not situated in a county, two members of the committee, a man and a woman, shall be elected from each ward.

6. In all counties with a charter form of government and a population of over nine hundred thousand inhabitants, the county committee persons shall be elected from each township. Within ninety days after August 28, 2002, and within six months after each decennial census has been reported to the President of the United States, the election authority shall divide the county into twenty-eight compact and contiguous townships containing populations as nearly equal in population to each other as is practical.

7. If any election authority has failed to adopt a reapportionment plan by the deadline set forth in this section, the county commission, sitting as a reapportionment commission, shall within sixty days after the deadline, adopt a reapportionment plan. Changes of township, ward, or precinct lines shall not affect the terms of office of incumbent party committee members elected from districts as constituted at the time of their election.

Approved June 24, 2004

HB 994 [HB 994]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the expiration date for the Thirtieth Judicial Circuit surcharge to 2010 and removes the requirement that the laws must be adopted prior to January 1, 1997.

AN ACT to repeal section 488.2205, RSMo, and to enact in lieu thereof one new section relating to court costs in the thirtieth judicial circuit.

SECTION

A. Enacting clause.

488.2205. 30th judicial circuit to collect surcharge, when — use of funds — expiration.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 488.2205, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 488.2205, to read as follows:

488.2205. 30TH JUDICIAL CIRCUIT TO COLLECT SURCHARGE, WHEN — USE OF FUNDS — EXPIRATION. — 1. In addition to all court fees and costs prescribed by law, a surcharge of up to ten dollars shall be assessed as costs in each court proceeding filed in any court within the thirtieth judicial circuit in all criminal cases including violations of any county or municipal ordinance or any violation of a criminal or traffic law of the state, including an infraction, except that no such surcharge shall be collected in any proceeding in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized, by order, ordinance or resolution [adopted prior to January 1, 1997,] by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized, by order, ordinance or resolution [adopted prior to January 1, 1997,] by the municipal government where the violation occurred. Such surcharges shall be collected and disbursed by the clerk of each respective court responsible for collecting court costs in the manner provided by sections 488.010 to 488.020, and shall be payable to the treasurer of the county where the violation occurred.

2. Each county shall use all funds received pursuant to this section only to pay for the costs associated with the construction, maintenance and operation of the county judicial facility and the circuit juvenile detention center including, but not limited to, utilities, maintenance and building security. The county shall maintain records identifying such operating costs, and any moneys not needed for the operating costs of the county judicial facility shall be transmitted quarterly to the general revenue fund of the county.

3. This section shall expire and be of no force and effect on and after January 1, [2005] **2010**.

Approved June 25, 2004

HB 996 [SCS HB 996 AND HB 1142 AND HCS HB 1201 AND HB 1489]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes various provisions related to motor vehicles.

AN ACT to repeal sections 301.010, 304.013, 304.156, 307.172, 307.366, 307.375, and 643.315, RSMo, and to enact in lieu thereof eight new sections relating to motor vehicles, with penalty provisions.

SECTION

- A. Enacting clause.
- 301.010. Definitions.
- 304.013. All-terrain vehicles, prohibited on highways, rivers or streams of this state, exceptions, operational requirements — special permits — prohibited uses — penalty.
- 304.029. Operation of low-speed vehicles on highway, permitted when — exemptions.
- 304.156. Notice to towing company, owner or lienholder, when — storage charges, when authorized — search of vehicle for ownership documents — petition, determination of wrongful taking — possessory lien, new title, how issued — sale of abandoned property by municipality or county, requirements — towing company, new title when.
- 307.172. Altering passenger motor vehicle by raising front or rear of vehicle prohibited, when — bumpers front and rear required, when — violations not to pass inspection — penalty — certain vehicles exempt.
- 307.366. Motor vehicle emissions tested, when, mandated by Congress for nonattainment areas designated by governor — exempt vehicles — certificate — motor vehicle dealers may sell with or without inspection, procedure, penalty — fee — waiver — failure to pass, result — fund created, source, use and investment of funds — inspection stations, duties — highway patrol, duties — violation, penalty.
- 307.375. Inspection of school buses — items covered — violations, when corrected, notice to patrol — spot checks authorized.
- 643.315. Motor vehicles subject to program, when, exceptions — reciprocity with other states — dealer inspection, return of motor vehicle for failing inspection, options, violation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.010, 304.013, 304.156, 307.172, 307.366, 307.375, and 643.315, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 301.010, 304.013, 304.029, 304.156, 307.172, 307.366, 307.375, and 643.315, to read as follows:

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of [six hundred] **one thousand** pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, **or with a seat designed to carry more than one person**, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation", the movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a

fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of twenty-five miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and is not operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, does not have more than four axles and does not pull a trailer which has more than two axles. A local log truck may not exceed the limits required by law, however, if

the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(28) "Log truck", a vehicle which is not a local log truck and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(29) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(30) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(31) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(32) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(33) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(34) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(35) "Motorcycle", a motor vehicle operated on two wheels;

(36) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(37) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(38) "Municipality", any city, town or village, whether incorporated or not;

(39) "Nonresident", a resident of a state or country other than the state of Missouri;

(40) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(41) "Operator", any person who operates or drives a motor vehicle;

(42) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(43) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(44) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(45) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(46) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(47) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(48) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination;

(49) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(50) "Salvage vehicle", a motor vehicle, semitrailer or house trailer which, by reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it, or by an insurance company as a result of settlement of a claim for loss due to damage or theft; or a vehicle, ownership of which is evidenced by a salvage title; or abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property";

(51) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(52) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(53) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(54) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term "specially constructed motor vehicle" includes kit vehicles;

(55) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(56) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(57) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(58) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(59) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(60) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(61) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(62) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(63) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(64) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(65) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(66) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

304.013. ALL-TERRAIN VEHICLES, PROHIBITED ON HIGHWAYS, RIVERS OR STREAMS OF THIS STATE, EXCEPTIONS, OPERATIONAL REQUIREMENTS — SPECIAL PERMITS — PROHIBITED USES — PENALTY. — 1. No person shall operate an all-terrain vehicle, as defined in section 301.010, RSMo, upon the highways of this state, except as follows:

- (1) All-terrain vehicles owned and operated by a governmental entity for official use;
- (2) All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation;
- (3) All-terrain vehicles operated by handicapped persons for short distances occasionally only on the state's secondary roads when operated between the hours of sunrise and sunset;
- (4) Governing bodies of cities may issue special permits to licensed drivers for special uses of all-terrain vehicles on highways within the city limits. Fees of fifteen dollars may be collected and retained by cities for such permits;
- (5) Governing bodies of counties may issue special permits to licensed drivers for special uses of all-terrain vehicles on county roads within the county. Fees of fifteen dollars may be collected and retained by the counties for such permits.

2. No person shall operate an off-road vehicle within any stream or river in this state, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions or department of conservation agents or department of natural resources park rangers shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

3. A person operating an all-terrain vehicle on a highway pursuant to an exception covered in this section shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle pursuant to subdivision (3) of subsection 1 of this section, but shall not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty miles per hour. When operated on a highway, an all-terrain vehicle shall have a bicycle safety flag, which extends not less than seven feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

4. No persons shall operate an all-terrain vehicle:

- (1) In any careless way so as to endanger the person or property of another;
- (2) While under the influence of alcohol or any controlled substance;
- (3) Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least eighteen years of age.

5. No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes. **The provisions of this subsection shall not apply to any all-terrain vehicle in which the seat of such vehicle is designed to carry more than one person.**

6. A violation of this section shall be a class C misdemeanor. In addition to other legal remedies, the attorney general or county prosecuting attorney may institute a civil action in a court of competent jurisdiction for injunctive relief to prevent such violation or future violations and for the assessment of a civil penalty not to exceed one thousand dollars per day of violation.

304.029. OPERATION OF LOW-SPEED VEHICLES ON HIGHWAY, PERMITTED WHEN — EXEMPTIONS. — 1. Notwithstanding any other law to the contrary, a low-speed vehicle may be operated upon a highway in the state if it meets the requirements of this section. Every person operating a low-speed vehicle shall be granted all the rights and shall be subject to all the duties applicable to the driver of any other motor vehicle except as to the special regulations in this section and except as to those provisions which by their nature can have no application.

2. The operator of a low-speed vehicle shall observe all traffic laws and local ordinances regarding the rules of the road. A low-speed vehicle shall not be operated on a street or a highway with a posted speed limit greater than thirty-five miles per hour.

The provisions of this subsection shall not prohibit a low-speed vehicle from crossing a street or highway with a posted speed limit greater than thirty-five miles per hour.

3. A low-speed vehicle shall be exempt from the requirements of sections 307.350 to 307.402, RSMo, for purposes of titling and registration. Low-speed vehicles shall comply with the standards in 49 C.F.R. 571.500, as amended.

4. Every operator of a low-speed vehicle shall maintain financial responsibility on such low-speed vehicle as required by chapter 303, RSMo, if the low-speed vehicle is to be operated upon the highways of this state.

5. Each person operating a low-speed vehicle on a highway in this state shall possess a valid driver's license issued pursuant to chapter 302, RSMo.

6. For purposes of this section a "low-speed vehicle" shall have the meaning ascribed to it in 49 C.F.R., section 571.3, as amended.

7. All low-speed vehicles shall be manufactured in compliance with the National Highway Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. 571.500, as amended.

8. Nothing in this section shall prevent county or municipal governments from adopting more stringent local ordinances governing low-speed vehicle operation if the governing body of the county or municipality determines that such ordinances are necessary in the interest of public safety. The department of transportation may prohibit the operation of low-speed vehicles on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

304.156. NOTICE TO TOWING COMPANY, OWNER OR LIENHOLDER, WHEN — STORAGE CHARGES, WHEN AUTHORIZED — SEARCH OF VEHICLE FOR OWNERSHIP DOCUMENTS — PETITION, DETERMINATION OF WRONGFUL TAKING — POSSESSORY LIEN, NEW TITLE, HOW ISSUED — SALE OF ABANDONED PROPERTY BY MUNICIPALITY OR COUNTY, REQUIREMENTS — TOWING COMPANY, NEW TITLE WHEN. — 1. Within five working days of receipt of the crime inquiry and inspection report under section 304.155 or the abandoned property report under section 304.157, the director of revenue shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to determine the name and address of the owner and lienholder, if any. After ascertaining the name and address of the owner and lienholder, if any, the department shall, within fifteen working days, notify the towing company. Any towing company which comes into possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the department of revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten business days of the date of mailing indicated on the notice sent by the department of revenue, by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address and telephone number of the storage facility;
 - (2) The date, reason and place from which the abandoned property was removed;
 - (3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
 - (4) A statement that the storage firm claims a possessory lien for all such charges;
 - (5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
 - (6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this section to contest the propriety of such towing or removal;
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(7) A statement that if the abandoned property remains unclaimed for thirty days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and

(8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

2. A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of sections 304.155 to 304.158.

3. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the department shall notify the towing company which shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed that no ownership documents were found and a good faith effort has been made. For purposes of this section, "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and title:

(1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

(2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;

(3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

(4) If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

4. If no ownership information is discovered, the director of revenue shall be notified in writing and title obtained in accordance with subsection 7 of this section.

5. (1) The owner of the abandoned property removed pursuant to the provisions of section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to subsection 1 of this section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The director of revenue shall not be a party to such petition but a copy of the petition shall be served on the director of revenue who shall not issue title to such abandoned property pursuant to this section until the petition is finally decided.

(2) Upon filing of a petition in the associate circuit court, the owner or lienholder may have the abandoned property released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing and storage to ensure the payment of such charges in the event he does not prevail. Upon the posting of the bond and the payment of the applicable fees, the court shall issue an order notifying the towing company of the posting of the bond and directing the towing company to release the abandoned property. At the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing company reciting any claims for loss or damage to the abandoned property or the contents thereof.

(3) Upon determining the respective rights of the parties, the final order of the court shall provide for immediate payment in full of recovery, towing, and storage fees by the abandoned property owner or lienholder or the owner, lessee, or agent thereof of the real property from which the abandoned property was removed.

6. A towing and storage lien shall be enforced as provided in subsection 7 of this section.

7. Thirty days after the notification form has been mailed to the abandoned property owner and holder of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in subsection 5 of this section, the lienholder in possession may apply to the director of revenue for a certificate. The application for title shall be accompanied by:

(1) An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty days and the owner of the abandoned property or holder of a security agreement has not made arrangements for payment of towing and storage charges;

(2) An affidavit that the lienholder in possession has not been notified of any application for hearing as provided in this section;

(3) A copy of the abandoned property report or crime inquiry and inspection report;

(4) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and lienholder of record was sent a notice as required in this section; and

(5) A copy of the envelope or mailing container showing the address and postal markings indicating that the notice was "not forwardable" or "address unknown".

8. If notice to the owner and holder of a security agreement has been returned marked "not forwardable" or "addressee unknown", the lienholder in possession shall comply with subsection 3 of this section.

9. Any municipality or county may adopt an ordinance regulating the removal and sale of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158, **and, for a home rule city with more than four hundred thousand inhabitants and located in more than one county, includes the following provisions:**

(1) That the department of revenue records must be searched to determine the registered owner or lienholder of the abandoned property;

(2) That if a registered owner or lienholder is disclosed in the records, that the owner and lienholder or owner or lienholder are mailed a notice by the governmental agency, by U.S. mail, advising of the towing and impoundment;

(3) That if the vehicle is older than six years and more than fifty percent damaged by collision, fire, or decay, and has a fair market value of less than two hundred dollars as determined by using any nationally recognized appraisal book or method, it must be held no less than ten days after the notice is sent pursuant to this subsection before being sold to a licensed salvage or scrap business; provided however where a title is required under this chapter an affidavit from a certified appraiser attesting that the value of the vehicle is less than two hundred dollars.

(4) That all other vehicles must be held no less than thirty days after the notice is sent pursuant to this subsection before they may be sold.

10. Any municipality or county which has physical possession of the abandoned property and which sells abandoned property in accordance with a local ordinance may transfer ownership by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the official municipal or county seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of section 301.218, RSMo, or section 301.560, RSMo, or for any other person. Any dealer or other person purchasing such property from a municipality or county shall apply within thirty days of purchase for a certificate. Anyone convicted of a violation of this section shall be guilty of an infraction.

11. Any persons who have towed abandoned property prior to August 28, 1996, may, until January 1, 2000, apply to the department of revenue for a certificate. The application shall be accompanied by:

(1) A notarized affidavit explaining the circumstances by which the abandoned property came into their possession, including the name of the owner or possessor of real property from which the abandoned property was removed;

(2) The date of the removal;

(3) The current location of the abandoned property;

(4) An inspection of the abandoned property as prescribed by the director; and

(5) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest of record and a copy of the certified mail receipt.

12. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue one of the following:

(1) An original certificate of title if the vehicle owner has obtained a vehicle examination certificate as provided in section 301.190, RSMo, which indicates that the vehicle was not previously in a salvaged condition or rebuilt;

(2) An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190, RSMo, indicates the vehicle was previously in a salvage condition or rebuilt;

(3) A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report;

(4) Notwithstanding the provisions of section 301.573, RSMo, to the contrary, if satisfied with the genuineness of the application and supporting documents, the director shall issue an original title to abandoned property previously issued a salvage title as provided in this section, if the vehicle examination certificate as provided in section 301.190, RSMo, does not indicate the abandoned property was previously in a salvage condition or rebuilt.

13. If abandoned property is insured and the insurer of property regards the property as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or lienholder shall claim and remove the property from the storage facility or make arrangements to transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of all claims for towing and storage, to the towing company or storage facility. The owner of the abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance policy covers towing and storage charges, shall pay reasonable fees assessed by the towing company and storage facility. The property shall be claimed and removed or title transferred to the towing company or storage facility within thirty days of the date that the insurer paid a claim for the total loss of the property or is notified as to the location of the abandoned property, whichever is the later event. Upon request, the insurer of the property shall supply the towing company and storage facility with the name, address and phone number of the insurance company and of the insured and with a statement regarding which party is responsible for the payment of towing and storage charges under the insurance policy.

307.172. ALTERING PASSENGER MOTOR VEHICLE BY RAISING FRONT OR REAR OF VEHICLE PROHIBITED, WHEN — BUMPERS FRONT AND REAR REQUIRED, WHEN — VIOLATIONS NOT TO PASS INSPECTION — PENALTY — CERTAIN VEHICLES EXEMPT. — 1. No person shall operate any passenger motor vehicle upon the public streets or highways of this state, the body of which has been altered in such a manner that the front or rear of the vehicle is raised at such an angle as to obstruct the vision of the operator of the street or highway in front or to the rear of the vehicle.

2. Every motor vehicle which is licensed in this state and operated upon the public streets or highways of this state shall be equipped with front and rear bumpers if such vehicle was equipped with bumpers as standard equipment. This subsection shall not apply to motor vehicles designed or modified primarily for off-highway purposes while such vehicles are in tow or to motorcycles or motor driven cycles, or to motor vehicles registered as historic motor vehicles when the original design of such vehicles did not include bumpers nor shall the provisions of this

subsection prohibit the use of drop bumpers. The superintendent of the Missouri state highway patrol shall adopt rules and regulations relating to bumper standards. Maximum bumper heights of both the front and rear bumpers of motor vehicles shall be determined by weight category of gross vehicle weight rating (GVWR) measured from a level surface to the highest point of the bottom of the bumper when the vehicle is unloaded and the tires are inflated to the manufacturer's recommended pressure. Maximum bumper heights are as follows:

	Maximum front bumper height	Maximum rear bumper height
Motor vehicles except commercial motor vehicles	22 inches	22 inches
commercial motor vehicles (GVWR)		
4,500 lbs and under . . .	24 inches	26 inches
4,501 lbs through 7,500 lbs	27 inches	29 inches
7,501 lbs through 9,000 lbs	28 inches	30 inches
9001 lbs through 11,500 lbs	29 inches	31 inches

3. A motor vehicle in violation of this section shall not be approved during any motor vehicle safety inspection required pursuant to sections 307.350 to 307.390.

4. Any person knowingly violating the provisions of this section is guilty of a class C misdemeanor.

307.366. MOTOR VEHICLE EMISSIONS TESTED, WHEN, MANDATED BY CONGRESS FOR NONATTAINMENT AREAS DESIGNATED BY GOVERNOR — EXEMPT VEHICLES — CERTIFICATE — MOTOR VEHICLE DEALERS MAY SELL WITH OR WITHOUT INSPECTION, PROCEDURE, PENALTY — FEE — WAIVER — FAILURE TO PASS, RESULT — FUND CREATED, SOURCE, USE AND INVESTMENT OF FUNDS — INSPECTION STATIONS, DUTIES — HIGHWAY PATROL, DUTIES — VIOLATION, PENALTY. — 1. This enactment of the emissions inspection program is a mandate of the United States Congress pursuant to the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. In any portion of an area designated by the governor as a nonattainment area, as defined in the federal Clean Air Act, as amended, 42 U.S.C.A. Section 7501, and located within the area described in subsection 1 of section 643.305, RSMo, certain motor vehicles shall be tested and approved prior to sale or transfer and biennially thereafter to determine that the emissions system is functioning within the emission standards as specified by the Missouri air conservation commission and as required to attain the national health standards for air quality. For such biennial testing, any such vehicle manufactured as an even-numbered model year vehicle shall be tested and approved in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be tested and approved in each odd-numbered calendar year. The motor vehicles to be tested shall be all motor vehicles except those specifically exempted pursuant to subdivisions (1) to (3) of subsection 1 of section 307.350 and those exempted pursuant to this section.

2. The provisions of this section shall not apply to:

- (1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;
- (2) Motorcycles and motortricycles;
- (3) Model year vehicles **manufactured twenty-six years or more prior to [1971] the current model year;**
- (4) School buses;
- (5) Diesel-powered vehicles;

(6) Motor vehicles registered in the area covered by this section but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of such vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area;

(7) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user; and

(8) Motor vehicles owned by a person who resides in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census who has completed an emission inspection pursuant to section 643.315, RSMo.

Each official inspection station which conducts emissions inspections within the area referred to in subsection 1 of this section shall indicate the gross vehicle weight rating of the motor vehicle on the inspection certificate if the vehicle is exempt from the emissions inspection pursuant to subdivision (1) of this subsection.

3. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of this section either:

- (a) With prior inspection and approval as provided in subdivision (2) of this subsection; or
- (b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to this section or by obtaining a waiver pursuant to subsection 6 of this section. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subsection shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required pursuant to this section for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380.

4. A fee not to exceed twenty-four dollars may be charged for an automobile emissions and air pollution control inspection in order to attain the national health standards for air quality. Such fee shall be conspicuously posted on the premises of each such inspection station. The official emissions inspection station shall issue a certificate of inspection and an approval sticker or seal certifying the emissions system is functioning properly. The certificate or approval issued shall bear the legend: "This cost is mandated by your United States Congress.". No owner shall be charged an additional fee after having corrected defects or unsafe conditions in the

automobile's emissions and air pollution control system if the reinspection is completed within twenty consecutive days, excluding Saturdays, Sundays and holidays, and if such follow-up inspection is made by the station making the initial inspection.

5. The air conservation commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which shall be no greater than seventy-five dollars for model year vehicles prior to 1981 and no greater than two hundred dollars for model year vehicles of 1981 and all subsequent model years.

6. An owner whose vehicle fails upon reinspection to meet the emission standards specified by the Missouri air conservation commission shall be issued a certificate of inspection and an approval sticker or seal by the official emissions inspection station that provided the inspection if the vehicle owner furnishes a complete, signed affidavit satisfying the requirements of this subsection and the cost of emissions repairs and adjustments is equal to or greater than the waiver amount established by the air conservation commission pursuant to this section. The air conservation commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval. The waiver form established pursuant to this subsection shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the inspector that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

7. The department of revenue shall require evidence of the inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.370.

8. Each emissions inspection station located in the area described in subsection 1 of this section shall purchase from the highway patrol sufficient forms and stickers or other devices to evidence approval of the motor vehicle's emissions control system. In addition, emissions inspection stations may be required to purchase forms for use in automated analyzers from outside vendors of the inspection station's choice. The forms must comply with state regulations.

9. In addition to the fee collected by the superintendent pursuant to subsection 5 of section 307.365, the highway patrol shall collect a fee of seventy-five cents for each automobile emissions certificate issued to the applicable official emissions inspection stations, except that no charge shall be made for certificates of inspection issued to official emissions inspection stations operated by governmental entities. All fees collected by the superintendent pursuant to this section shall be deposited in the state treasury to the credit of the "Missouri Air Pollution Control Fund", which is hereby created.

10. The moneys collected and deposited in the Missouri air pollution control fund pursuant to this section shall be allocated on an equal basis to the Missouri state highway patrol and the Missouri department of natural resources, air pollution control program, and shall be expended subject to appropriation by the general assembly for the administration and enforcement of sections 307.350 to 307.390. The unexpended balance in the fund at the end of each appropriation period shall not be transferred to the general revenue fund, except as directed by the general assembly by appropriation, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund at the end of the biennium, shall not apply to this fund. The moneys in the fund shall be invested by the treasurer as provided by law, and the interest shall be credited to the fund.

11. The superintendent of the Missouri state highway patrol shall issue such rules and regulations as are necessary to determine whether a motor vehicle's emissions control system is operating as required by subsection 1 of this section, and the superintendent and the state highways and transportation commission shall use their best efforts to seek federal funds from which reimbursement grants may be made to those official inspection stations which acquire and use the necessary testing equipment which will be required to perform the tests required by the provisions of this section.

12. The provisions of this section shall not apply in any county for any time period during which the air conservation commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, RSMo, for such county, except where motor vehicle owners have the option of biennial testing pursuant to chapter 643, RSMo. In counties where such option is available, the emissions inspection may be conducted in stations conducting only an emissions inspection under contract to the state.

13. Notwithstanding the provisions of section 307.390, violation of this section shall be deemed a class C misdemeanor.

307.375. INSPECTION OF SCHOOL BUSES — ITEMS COVERED — VIOLATIONS, WHEN CORRECTED, NOTICE TO PATROL — SPOT CHECKS AUTHORIZED. — 1. The owner of every bus used to transport children to or from school in addition to any other inspection required by law shall submit the vehicle to an official inspection station, and obtain a certificate of inspection, sticker, seal or other device annually, but the inspection of the vehicle shall not be made more than sixty days prior to operating the vehicle during the school year. The inspection shall, in addition to the inspection of the mechanism and equipment required for all motor vehicles under the provisions of sections 307.350 to 307.390, include an inspection to ascertain that the following items are correctly fitted, adjusted, and in good working condition:

- (1) All mirrors, including crossview, inside, and outside;
- (2) The front and rear warning flashers;
- (3) The stop signal arm;
- (4) The crossing control arm on public school buses required to have them pursuant to section 304.050, RSMo;
- (5) The rear bumper to determine that it is flush with the bus so that hitching of rides cannot occur;
- (6) The exhaust tailpipe shall be flush with or may extend not more than two inches beyond the perimeter of the body or bumper;
- (7) The emergency doors and exits to determine them to be unlocked and easily opened as required;
- (8) The lettering and signing on the front, side and rear of the bus;
- (9) The service door;
- (10) The step treads;
- (11) The aisle mats or aisle runners;
- (12) The emergency equipment which shall include as a minimum, a first aid kit, flares or fuses, and a fire extinguisher;
- (13) The seats, including a determination that they are securely fastened to the floor;
- (14) The emergency door buzzer;
- (15) All hand hold grips;
- (16) The interior glazing of the bus.

2. In addition to the inspection required by subsection 1 of this section, the Missouri state highway patrol shall conduct an inspection after February first of each school year of all vehicles required to be marked as school buses under section 304.050, RSMo. This inspection shall be conducted by the Missouri highway patrol in cooperation with the department of elementary and secondary education and shall include, as a minimum, items in subsection 1 of this section and the following:

- (1) The driver seat belts;
- (2) The heating and defrosting systems;
- (3) The reflectors;
- (4) The bus steps;
- (5) The aisles;
- (6) **The frame.**

3. If, upon inspection, conditions which violate the standards in subsection 2 of this section are found, the owner or operator shall have them corrected in ten days and notify the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent. If the defects or unsafe conditions found constitute an immediate danger, the bus shall not be used until corrections are made and the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent are notified.

4. The Missouri highway patrol may inspect any school bus at any time and if such inspection reveals a deficiency affecting the safe operation of the bus, the provisions of subsection 3 of this section shall be applicable.

643.315. MOTOR VEHICLES SUBJECT TO PROGRAM, WHEN, EXCEPTIONS — RECIPROCITY WITH OTHER STATES — DEALER INSPECTION, RETURN OF MOTOR VEHICLE FOR FAILING INSPECTION, OPTIONS, VIOLATION. — 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which are domiciled, registered or primarily operated in an area for which the commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, which may include all motor vehicles owned by residents of a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census who have chosen to participate in such a program in lieu of the provisions of section 307.366, RSMo, shall be inspected and approved prior to sale or transfer. In addition, any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each odd-numbered calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid emissions inspection certificate shall be presented at the time of registration or registration renewal of such motor vehicle.

2. No emission standard established by the commission for a given make and model year shall exceed the lesser of the following:

(1) The emission standard for that vehicle model year as established by the United States Environmental Protection Agency; or

(2) The emission standard for that vehicle make and model year as established by the vehicle manufacturer.

3. The inspection requirement of subsection 1 of this section shall apply to all motor vehicles except:

(1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;

(2) Motorcycles and motortricycles if such vehicles are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(3) Model year vehicles **manufactured twenty-six years or more** prior to [1971] **the current model year**;

(4) Vehicles which are powered exclusively by electric or hydrogen power or by fuels other than gasoline which are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;

(5) Motor vehicles registered in an area subject to the inspection requirements of sections 643.300 to 643.355 which are domiciled and operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, but only if the owner of such vehicle presents to the department an affidavit that the vehicle will be operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355

for the next twenty-four months, and the owner applies for and receives a waiver which shall be presented at the time of registration or registration renewal;

(6) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user; and

(7) Historic motor vehicles registered pursuant to section 301.131, RSMo.

4. The commission may, by rule, allow inspection reciprocity with other states having equivalent or more stringent testing and waiver requirements than those established pursuant to sections 643.300 to 643.355.

5. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of sections 643.300 to 643.355 either:

- (a) With prior inspection and approval as provided in subdivision (2) of this subsection; or
- (b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to sections 643.300 to 643.355 or by obtaining a waiver pursuant to section 643.335. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required pursuant to sections 643.300 to 643.360 for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380, RSMo.

Approved July 2, 2004

HB 998 [SS HCS HB 998 & 905]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires notice of eviction for mobile home owners to vacate.

AN ACT to amend chapter 700, RSMo, by adding thereto one new section relating to manufactured homes, with penalty provisions.

SECTION

A. Enacting clause.

700.600. Notice required before landlord may evict, when — landlord prohibited from increasing rent, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 700, RSMo, is amended by adding thereto one new section, to be known as section 700.600, to read as follows:

700.600. NOTICE REQUIRED BEFORE LANDLORD MAY EVICT, WHEN — LANDLORD PROHIBITED FROM INCREASING RENT, WHEN. — 1. As used in this section, the following terms mean:

- (1) "Manufactured home", the same meaning as provided in section 700.010, RSMo;
- (2) "Manufactured or mobile home land lease community", any area, lot, parcel, or tract held in common ownership and on which individual portions of such area, lot, parcel, or tract are leased for the placement of manufactured or mobile homes as a primary residence;
- (3) "Mobile home", a residential building constructed or assembled in a factory which is not certified pursuant to the federal Housing and Urban Development (HUD) Code and which conforms to the American National Standards Institute (ANSI) standards for mobile homes.

2. A landlord of a manufactured or mobile home land lease community shall provide written notice to all of the community's tenants who own their manufactured or mobile homes at least one hundred twenty days prior to requiring such tenants to vacate the property due to a change in use of the property. In cases where more than one hundred twenty days remain on a current lease, the longer time period shall apply for purposes of providing notice pursuant to this section. The landlord shall not increase the rent, except for a rent increase based solely on an increase in property taxes, for any tenant of the manufactured or mobile home land lease community during the sixty-day period prior to providing such notice or at any time after providing such notice.

3. Nothing in this section shall be construed as prohibiting a landlord from evicting a tenant with less than one hundred twenty days' notice for any reason other than a change in use of the property.

Approved June 7, 2004

HB 1029 [SCS HB 1029 AND HB 1438 AND HB 1610]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates various portions of highways as memorials.

AN ACT to amend chapter 227, RSMo, by adding thereto four new sections relating to the designation of certain memorial highways.

SECTION

A. Enacting clause.

227.346. U.S. Submarine Veterans' Memorial Highway designated for portion of Interstate 70 in Saline County.

- 227.349. Veterans Highway designated for a portion of State Highway J in Lincoln County.
227.350. Deputy Steven R. Ziegler Memorial Highway designated for a portion of U.S. Highway 67 in St. Francois County.
227.353. Trooper Jesse R. Jenkins Memorial Highway designated for a portion of U.S. Highway 67 in St. Francois County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto four new sections, to be known as sections 227.346, 227.349, 227.350, and 227.353, to read as follows:

227.346. U.S. SUBMARINE VETERANS' MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 70 IN SALINE COUNTY. — The portion of Interstate Highway 70 between mile marker 69 in any county of the fourth classification with more than twenty-three thousand seven hundred but less than twenty-three thousand eight hundred inhabitants and east to mile marker 123 in any county of the first classification with more than one hundred thirty-five thousand four hundred but less than one hundred thirty-five thousand five hundred inhabitants, except where otherwise designated, shall be designated the "U.S. Submarine Veterans' Memorial Highway", and shall represent in its fifty-four mile stretch the fifty-four submarines lost during war and the Cold War. The department of transportation shall erect and maintain appropriate signs designating such highway, with the cost of such signs to be paid by the submarine veterans' association.

227.349. VETERANS HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY J IN LINCOLN COUNTY. — The portion of state highway J in Lincoln County from the intersection of state highway J and state highway 47 to the intersection of state highway J and state highway U shall be named the "Veterans Highway".

227.350. DEPUTY STEVEN R. ZIEGLER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 67 IN ST. FRANCOIS COUNTY. — The portion of U.S. highway 67 in St. Francois County between state route 8 in Desloge and state route 32 in Leadington shall be designated the "Deputy Steven R. Ziegler Memorial Highway". Costs for such designation shall be paid by private donations.

227.353. TROOPER JESSE R. JENKINS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 67 IN ST. FRANCOIS COUNTY. — The portion of U.S. highway 67 in St. Francois County between Desloge and Bonne Terre shall be designated the "Trooper Jesse R. Jenkins Memorial Highway". Costs for such designation shall be paid by private donations.

Approved July 2, 2004

HB 1047 [HB 1047]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes certain city councils to set council member salaries by ordinance.

AN ACT to repeal section 78.590, RSMo, and to enact in lieu thereof one new section relating to salary of council members in certain cities.

SECTION

- A. Enacting clause.
78.590. Meetings of the council — salary determined by city council.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 78.590, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 78.590, to read as follows:

78.590. MEETINGS OF THE COUNCIL — SALARY DETERMINED BY CITY COUNCIL. — Regular meetings of the council shall be held at least once every month and special meetings may be called by the mayor at [his] **the mayor's** own instance or upon written application of two members of the council. Each [councilman] **council member** shall receive a salary [not exceeding one hundred dollars a year] **as determined by ordinance of the council**, payable quarterly.

Approved June 24, 2004

HB 1055 [CCS SS HCS HB 1055]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes various provisions related to sex crimes.

AN ACT to repeal sections 43.540, 50.550, 537.046, 558.019, 559.021, 565.082, 565.083, 556.037, 566.083, 566.093, 566.140, 566.141, 573.037, 573.040, 589.400, 589.425, and 660.520, RSMo, and to enact in lieu thereof twenty new sections relating to sexual offenses, with a penalty provision.

SECTION

- A. Enacting clause.
43.540. Criminal record review — definitions — patrol to conduct review, when, procedure, confidentiality, violation, penalty — patrol to provide forms.
50.550. Annual budget shall present a complete financial plan — county law enforcement restitution fund authorized.
50.565. County law enforcement restitution fund may be established, proceeds designated for deposit in, use of moneys — audit of fund.
537.046. Childhood sexual abuse, injury or illness defined — action for damages may be brought, when.
556.037. Time limitations for prosecutions for sexual offenses involving a person under eighteen.
558.019. Prior felony convictions, minimum prison terms — prison commitment defined — dangerous felony, minimum term prison term, how calculated — sentencing commission created, members, duties — recommended sentences, distribution — report — expenses — cooperation with commission — restorative justice methods — restitution fund.
559.021. Conditions of probation — compensation of victims — free work, public or charitable — defendant not an employee for workers' compensation purposes — payment to county restitution fund, when.
565.082. Assault of a law enforcement officer or emergency personnel in the second degree, definition, penalty.
565.083. Assault of a law enforcement officer or emergency personnel in the third degree, definition, penalty.
566.083. Sexual misconduct involving a child, penalty.
566.093. Sexual misconduct, second degree, penalties.
566.140. Treatment and rehabilitation program for perpetrators of sexual offenses, when — assessment or counseling services, provision of, restrictions.
566.141. All probation or parole to be conditioned on receiving appropriate treatment.
566.147. Certain offenders not to establish residency within one thousand feet of a school or child-care facility.
573.037. Possession of child pornography.
573.040. Furnishing pornographic materials to minors.
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- 589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration.
- 589.415. Probation and parole officers to notify law enforcement of sex offender change of residence, when — probation officer defined.
- 589.425. Failure to register, penalty — subsequent violations, penalty.
- 660.520. State technical assistance team for child sexual abuse cases, duties — counties may develop team, members — availability of records.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.540, 50.550, 537.046, 558.019, 559.021, 565.082, 565.083, 556.037, 566.083, 566.093, 566.140, 566.141, 573.037, 573.040, 589.400, 589.425, and 660.520, RSMo, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 43.540, 50.550, 50.565, 537.046, 556.037, 558.019, 559.021, 565.082, 565.083, 566.083, 566.093, 566.140, 566.141, 566.147, 573.037, 573.040, 589.400, 589.415, 589.425, and 660.520, RSMo, to read as follows:

43.540. CRIMINAL RECORD REVIEW — DEFINITIONS — PATROL TO CONDUCT REVIEW, WHEN, PROCEDURE, CONFIDENTIALITY, VIOLATION, PENALTY — PATROL TO PROVIDE FORMS. — 1. As used in this section, the following terms mean:

(1) "Authorized state agency", a division of state government or an office of state government designated by the statutes of Missouri to issue or renew a license, permit, certification, or registration of authority to a qualified entity;

(2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;

(3) "Missouri criminal record review", a review of criminal history records [or] **and** sex offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the Missouri state highway patrol in the Missouri criminal records repository;

(4) "National criminal record review", a review of the criminal history records maintained by the Federal Bureau of Investigation;

(5) "Patient or resident", a person who by reason of age, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(6) "Provider", a person who:

(a) Has or may have unsupervised access to children, the elderly, or persons with disabilities; and

(b) Is employed by or seeks employment with a qualified entity; or

(c) Volunteers or seeks to volunteer with a qualified entity; or

(d) Owns or operates a qualified entity;

(7) "Qualified entity", a person, business, or organization, whether public or private, for profit, not for profit, or voluntary, that provides care, placement, or educational services for children, the elderly, or persons with disabilities as patients or residents, including a business or organization that licenses or certifies others to provide care or placement services;

(8) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. A qualified entity may obtain a Missouri criminal record review of a provider from the highway patrol by furnishing information on forms and in the manner approved by the highway patrol.

3. A qualified entity may request a Missouri criminal record review and a national criminal record review of a provider through an authorized state agency. No authorized state agency is required by this section to process Missouri or national criminal record reviews for a qualified entity, however, if an authorized state agency agrees to process Missouri and national criminal

record reviews for a qualified entity, the qualified entity shall provide to the authorized state agency on forms and in a manner approved by the highway patrol the following:

- (1) Two sets of fingerprints of the provider;
- (2) A statement signed by the provider which contains:
 - (a) The provider's name, address, and date of birth;
 - (b) Whether the provider has been convicted of or has pled guilty to a crime which includes a suspended imposition of sentence;
 - (c) If the provider has been convicted of or has pled guilty to a crime, a description of the crime, and the particulars of the conviction or plea;
 - (d) The authority of the qualified entity to check the provider's criminal history;
 - (e) The right of the provider to review the report received by the qualified entity; and
 - (f) The right of the provider to challenge the accuracy of the report. If the challenge is to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

4. The authorized state agency shall forward the required forms and fees to the highway patrol. The results of the record review shall be forwarded to the authorized state agency who will notify the qualified entity. The authorized state agency may assess a fee to the qualified entity to cover the cost of handling the criminal record review and may establish an account solely for the collection and dissemination of fees associated with the criminal record reviews.

5. Any information received by an authorized state agency or a qualified entity pursuant to the provisions of this section shall be used solely for internal purposes in determining the suitability of a provider. The dissemination of criminal history information from the Federal Bureau of Investigation beyond the authorized state agency or related governmental entity is prohibited. All criminal record check information shall be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

6. The highway patrol shall make available or approve the necessary forms, procedures, and agreements necessary to implement the provisions of this section.

50.550. ANNUAL BUDGET SHALL PRESENT A COMPLETE FINANCIAL PLAN — COUNTY LAW ENFORCEMENT RESTITUTION FUND AUTHORIZED. — 1. The annual budget shall present a complete financial plan for the ensuing budget year. It shall set forth all proposed expenditures for the administration, operation and maintenance of all offices, departments, commissions, courts and institutions; the actual or estimated operating deficits or surpluses from prior years; all interest and debt redemption charges during the year and expenditures for capital projects.

2. The budget shall contain adequate provisions for the expenditures necessary for the care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs of holding circuit court in the county that are chargeable against the county, for the repair and upkeep of bridges other than on state highways and not in any special road district, and for the salaries, office expenses and deputy and clerical hire of all county officers and agencies.

3. In addition, the budget shall set forth in detail the anticipated income and other means of financing the proposed expenditures.

4. All receipts of the county for operation and maintenance shall be credited to the general fund, and all expenditures for these purposes shall be charged to this fund; except, that receipts from the special tax levy for roads and bridges shall be kept in a special fund and expenditures for roads and bridges may be charged to the special fund.

5. All receipts from the sale of bonds for any purpose shall be credited to the bond fund created for the purpose, and all expenditures for this purpose shall be charged to the fund. All receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue, and all payments to retire the issue shall be charged to the fund. All receipts for interest on outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

6. Subject to the provisions of section 50.565 the county commission may create a fund to be known as "The County Law Enforcement Restitution Fund".

7. The county commission may create other funds as are necessary from time to time.

50.565. COUNTY LAW ENFORCEMENT RESTITUTION FUND MAY BE ESTABLISHED, PROCEEDS DESIGNATED FOR DEPOSIT IN, USE OF MONEYS — AUDIT OF FUND. — 1. A county commission may establish by ordinance or order a fund whose proceeds may be expended only for the purposes provided for in subsection 3 of this section. The fund shall be designated as a county law enforcement restitution fund and shall be under the supervision of a board of trustees consisting of two citizens of the county appointed by the presiding commissioner of the county, two citizens of the county appointed by the sheriff of the county, and one citizen of the county appointed by the county coroner or medical examiner. The citizens so appointed shall not be current or former employees of the sheriff's department, the office of the prosecuting attorney for the county, or the county treasurer's office. If a county does not have a coroner or medical examiner, the county treasurer shall appoint one citizen to the board of trustees.

2. Money from the county law enforcement restitution fund shall only be expended upon the approval of a majority of the members of the county law enforcement restitution fund's board of trustees and only for the purposes provided for by subsection 3 of this section.

3. Money from the county law enforcement restitution fund shall only be expended for the following purposes:

- (1) Narcotics investigation, prevention, and intervention;
- (2) Purchase of law enforcement related equipment and supplies for the sheriff's office;
- (3) Matching funds for federal or state law enforcement grants;
- (4) Funding for the reporting of all state and federal crime statistics or information; and
- (5) Any law enforcement related expense, including those of the prosecuting attorney, approved by the board of trustees for the county law enforcement restitution fund that is reasonably related to investigation, charging, preparation, trial, and disposition of criminal cases before the courts of the state of Missouri.

4. The county commission may not reduce any law enforcement agency's budget as a result of funds the law enforcement agency receives from the county law enforcement restitution fund. The restitution fund is to be used only as a supplement to the law enforcement agency's funding received from other county, state, or federal funds.

5. County law enforcement restitution funds shall be audited as are all other county funds.

6. No court may order the assessment and payment authorized by this section if the plea of guilty or the finding of guilt is to the charge of speeding, careless and imprudent driving, any charge of violating a traffic control signal or sign, or any charge which is a class C misdemeanor or an infraction. No assessment and payment ordered pursuant to this section may exceed three hundred dollars for any charged offense.

537.046. CHILDHOOD SEXUAL ABUSE, INJURY OR ILLNESS DEFINED — ACTION FOR DAMAGES MAY BE BROUGHT, WHEN. — 1. As used in this section, the following terms mean:

(1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff which act occurred when the plaintiff was under the age of eighteen years and which act would have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

(2) "Injury" or "illness", either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

2. In any civil action for recovery of damages suffered as a result of childhood sexual abuse, [the time for commencement of the action shall be within five years] **the action shall be**

commenced within ten years of the date the plaintiff attains the age of [eighteen] **twenty-one** or within three years of the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse, whichever later occurs.

3. This section shall apply to any action commenced on or after August 28, 1990, including any action which would have been barred by the application of the statute of limitation applicable prior to that date.

556.037. TIME LIMITATIONS FOR PROSECUTIONS FOR SEXUAL OFFENSES INVOLVING A PERSON UNDER EIGHTEEN. — **Notwithstanding** the provisions of section 556.036, [to the contrary notwithstanding,] prosecutions for unlawful sexual offenses involving a person eighteen years of age or under must be commenced within [ten] **twenty** years after the victim reaches the age of eighteen **unless the prosecutions are for forcible rape, attempted forcible rape, forcible sodomy, or attempted forcible sodomy in which case such prosecutions may be commenced at any time.**

558.019. PRIOR FELONY CONVICTIONS, MINIMUM PRISON TERMS — PRISON COMMITMENT DEFINED — DANGEROUS FELONY, MINIMUM TERM PRISON TERM, HOW CALCULATED — SENTENCING COMMISSION CREATED, MEMBERS, DUTIES — RECOMMENDED SENTENCES, DISTRIBUTION — REPORT — EXPENSES — COOPERATION WITH COMMISSION — RESTORATIVE JUSTICE METHODS — RESTITUTION FUND. — 1. This section shall not be construed to affect the powers of the governor under article IV, section 7, of the Missouri Constitution. This statute shall not affect those provisions of section 565.020, RSMo, section 558.018 or section 571.015, RSMo, which set minimum terms of sentences, or the provisions of section 559.115, RSMo, relating to probation.

2. The provisions of subsections 2 to 5 of this section shall be applicable to all classes of felonies except those set forth in chapter 195, RSMo, and those otherwise excluded in subsection 1 of this section. For the purposes of this section, "prison commitment" means and is the receipt by the department of corrections of an offender after sentencing. For purposes of this section, prior prison commitments to the department of corrections shall not include commitment to a regimented discipline program established pursuant to section 217.378, RSMo. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a felony other than a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve the following minimum prison terms:

(1) If the offender has one previous prison commitment to the department of corrections for a felony offense, the minimum prison term which the offender must serve shall be forty percent of his or her sentence or until the offender attains seventy years of age, and has served at least thirty percent of the sentence imposed, whichever occurs first;

(2) If the offender has two previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be fifty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first;

(3) If the offender has three or more previous prison commitments to the department of corrections for felonies unrelated to the present offense, the minimum prison term which the offender must serve shall be eighty percent of his or her sentence or until the offender attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

3. Other provisions of the law to the contrary notwithstanding, any offender who has pleaded guilty to or has been found guilty of a dangerous felony as defined in section 556.061, RSMo, and is committed to the department of corrections shall be required to serve a minimum prison term of eighty-five percent of the sentence imposed by the court or until the offender

attains seventy years of age, and has served at least forty percent of the sentence imposed, whichever occurs first.

4. For the purpose of determining the minimum prison term to be served, the following calculations shall apply:

(1) A sentence of life shall be calculated to be thirty years;

(2) Any sentence either alone or in the aggregate with other consecutive sentences for crimes committed at or near the same time which is over seventy-five years shall be calculated to be seventy-five years.

5. For purposes of this section, the term "minimum prison term" shall mean time required to be served by the offender before he or she is eligible for parole, conditional release or other early release by the department of corrections. Except that the board of probation and parole, in the case of consecutive sentences imposed at the same time pursuant to a course of conduct constituting a common scheme or plan, shall be authorized to convert consecutive sentences to concurrent sentences, when the board finds, after hearing with notice to the prosecuting or circuit attorney, that the sum of the terms results in an unreasonably excessive total term, taking into consideration all factors related to the crime or crimes committed and the sentences received by others similarly situated.

6. (1) A sentencing advisory commission is hereby created to consist of eleven members. One member shall be appointed by the speaker of the house. One member shall be appointed by the president pro tem of the senate. One member shall be the director of the department of corrections. Six members shall be appointed by and serve at the pleasure of the governor from among the following: the public defender commission; private citizens; a private member of the Missouri Bar; the board of probation and parole; and a prosecutor. Two members shall be appointed by the supreme court, one from a metropolitan area and one from a rural area. All members shall be appointed to a four-year term. All members of the sentencing commission appointed prior to August 28, 1994, shall continue to serve on the sentencing advisory commission at the pleasure of the governor.

(2) The commission shall study sentencing practices in the circuit courts throughout the state for the purpose of determining whether and to what extent disparities exist among the various circuit courts with respect to the length of sentences imposed and the use of probation for offenders convicted of the same or similar crimes and with similar criminal histories. The commission shall also study and examine whether and to what extent sentencing disparity among economic and social classes exists in relation to the sentence of death and if so, the reasons therefor sentences are comparable to other states, if the length of the sentence is appropriate, and the rate of rehabilitation based on sentence. It shall compile statistics, examine cases, draw conclusions, and perform other duties relevant to the research and investigation of disparities in death penalty sentencing among economic and social classes.

(3) The commission shall establish a system of recommended sentences, within the statutory minimum and maximum sentences provided by law for each felony committed under the laws of this state. This system of recommended sentences shall be distributed to all sentencing courts within the state of Missouri. The recommended sentence for each crime shall take into account, but not be limited to, the following factors:

(a) The nature and severity of each offense;

(b) The record of prior offenses by the offender;

(c) The data gathered by the commission showing the duration and nature of sentences imposed for each crime; and

(d) The resources of the department of corrections and other authorities to carry out the punishments that are imposed.

(4) The commission shall study alternative sentences, prison work programs, work release, home-based incarceration, probation and parole options, and any other programs and report the feasibility of these options in Missouri.

(5) The commission shall publish and distribute its recommendations on or before July 1, 2004. The commission shall study the implementation and use of the recommendations until July 1, 2005, and return a report to the governor, the speaker of the house of representatives, and the president pro tem of the senate. Following the July 1, 2005, report, the commission shall revise the recommended sentences every two years.

(6) The governor shall select a chairperson who shall call meetings of the commission as required or permitted pursuant to the purpose of the sentencing commission.

(7) The members of the commission shall not receive compensation for their duties on the commission, but shall be reimbursed for actual and necessary expenses incurred in the performance of these duties and for which they are not reimbursed by reason of their other paid positions.

(8) The circuit and associate circuit courts of this state, the office of the state courts administrator, the department of public safety, and the department of corrections shall cooperate with the commission by providing information or access to information needed by the commission. The office of the state courts administrator will provide needed staffing resources.

7. Courts shall retain discretion to lower or exceed the sentence recommended by the commission as otherwise allowable by law, and to order restorative justice methods, when applicable.

8. If the imposition or execution of a sentence is suspended, the court may order any or all of the following restorative justice methods, or any other method that the court finds just or appropriate:

(1) Restitution to any victim **or a statutorily created fund** for costs incurred as a result of the offender's actions;

(2) Offender treatment programs;

(3) Mandatory community service;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

9. The provisions of this section shall apply only to offenses occurring on or after August 28, 2003.

10. Pursuant to subdivision (1) of subsection 8 of this section, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565, RSMo. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565, RSMo.

11. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.

12. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

559.021. CONDITIONS OF PROBATION — COMPENSATION OF VICTIMS — FREE WORK, PUBLIC OR CHARITABLE — DEFENDANT NOT AN EMPLOYEE FOR WORKERS' COMPENSATION PURPOSES — PAYMENT TO COUNTY RESTITUTION FUND, WHEN. — 1. The conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that

the defendant will not again violate the law. When a defendant is placed on probation he shall be given a certificate explicitly stating the conditions on which he is being released.

2. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any dependent of the victim, **any statutorily created fund for costs incurred as a result of the offender's actions**, or society. Such conditions may include **restorative justice methods pursuant to section 217.777, RSMo, or any other method that the court finds just or appropriate including**, but [shall] not [be] limited to:

(1) Restitution to the victim or any dependent of the victim, **or statutorily created fund for costs incurred as a result of the offender's actions** in an amount to be determined by the judge; [and]

(2) The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge;

(3) **Offender treatment programs;**

(4) **Work release programs in local facilities; and**

(5) **Community-based residential and nonresidential programs.**

3. The defendant may refuse probation conditioned on the performance of free work. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city, person, organization, or agency, or employee of a county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant shall not be deemed employment within the meaning of the provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

4. **In addition to such other authority as exists to order conditions of probation, in the case of a plea of guilty or a finding of guilt, the court may order the assessment and payment of a designated amount of restitution to a county law enforcement restitution fund established by the county commission pursuant to section 50.565, RSMo. Such contribution shall not exceed three hundred dollars for any charged offense. Any restitution moneys deposited into the county law enforcement restitution fund pursuant to this section shall only be expended pursuant to the provisions of section 50.565, RSMo.**

5. A judge may order payment to a restitution fund only if such fund had been created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall not have any direct supervisory authority or administrative control over any fund to which the judge is ordering a defendant to make payment.

6. A defendant who fails to make a payment to a county law enforcement restitution fund may not have his or her probation revoked solely for failing to make such payment unless the judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.

7. The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

565.082. ASSAULT OF A LAW ENFORCEMENT OFFICER OR EMERGENCY PERSONNEL IN THE SECOND DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer or emergency personnel in the second degree if such person:

(1) Knowingly causes or attempts to cause physical injury to a law enforcement officer or emergency personnel by means of a deadly weapon or dangerous instrument;

(2) **Knowingly causes or attempts to cause physical injury to a law enforcement officer or emergency personnel by means other than a deadly weapon or dangerous instrument;**

(3) Recklessly causes serious physical injury to a law enforcement officer or emergency personnel; or

[(3)] (4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and when so operating, acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel;

(5) **Acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel by means of a deadly weapon or dangerous instrument;**

(6) **Purposely or recklessly places a law enforcement officer or emergency personnel in apprehension of immediate serious physical injury; or**

(7) **Acts with criminal negligence to create a substantial risk of death or serious physical injury to a law enforcement officer or emergency personnel.**

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

3. Assault of a law enforcement officer or emergency personnel in the second degree is a class B felony **unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which case it is a class C felony.**

565.083. ASSAULT OF A LAW ENFORCEMENT OFFICER OR EMERGENCY PERSONNEL IN THE THIRD DEGREE, DEFINITION, PENALTY. — 1. A person commits the crime of assault of a law enforcement officer or emergency personnel in the third degree if:

(1) Such person [attempts to cause or] recklessly causes physical injury to a law enforcement officer or emergency personnel;

(2) [With criminal negligence such person causes physical injury to a law enforcement officer or emergency personnel by means of a deadly weapon;

(3)] Such person purposely places a law enforcement officer or emergency personnel in apprehension of immediate physical injury;

[(4) With criminal negligence such person creates a grave risk of death or serious physical injury to a law enforcement officer or emergency personnel; or

(5)] (3) Such person knowingly causes or attempts to cause physical contact with a law enforcement officer or emergency personnel without the consent of the law enforcement officer or emergency personnel.

2. As used in this section, "emergency personnel" means any paid or volunteer firefighter, emergency room or trauma center personnel, or emergency medical technician as defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

3. Assault of a law enforcement officer or emergency personnel in the third degree is a class A misdemeanor.

566.083. SEXUAL MISCONDUCT INVOLVING A CHILD, PENALTY. — 1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes the person's genitals to a child less than fourteen years of age in a manner that would cause a reasonable adult to believe that the conduct is likely to cause affront or alarm to a child less than fourteen years of age;

(2) Knowingly exposes the person's genitals to a child less than fourteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) Coerces **or induces** a child less than fourteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. As used in this section, the term "sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse,

masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

3. Violation of this section is a class D felony **unless the actor has previously pleaded guilty to or been convicted of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been convicted of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.**

566.093. SEXUAL MISCONDUCT, SECOND DEGREE, PENALTIES. — 1. A person commits the crime of sexual misconduct in the second degree if [he] **such person:**

(1) Exposes his **or her** genitals under circumstances in which he **or she** knows that his **or her** conduct is likely to cause affront or alarm; [or]

(2) Has sexual contact in the presence of a third person or persons under circumstances in which he **or she** knows that such conduct is likely to cause affront or alarm; **or**

(3) **Has sexual intercourse or deviate sexual intercourse in a public place in the presence of a third person.**

2. Sexual misconduct in the second degree is a class B misdemeanor unless the actor has previously been convicted of an offense under this chapter, in which case it is a class A misdemeanor.

566.140. TREATMENT AND REHABILITATION PROGRAM FOR PERPETRATORS OF SEXUAL OFFENSES, WHEN — ASSESSMENT OR COUNSELING SERVICES, PROVISION OF, RESTRICTIONS.

— 1. Any person who has pleaded guilty to or been found guilty of violating the provisions of this chapter, and is granted a suspended imposition or execution of sentence or placed under the supervision of the board of probation and parole shall be required to participate in **and successfully complete** a program of treatment, education and rehabilitation designed for perpetrators of sexual offenses. Persons required to attend a program pursuant to this section may be charged a reasonable fee to cover the costs of such program.

2. **No person who provides assessment services or who makes a report, finding, or recommendation for any probationer to attend any counseling or program of treatment, education or rehabilitation as a condition or requirement of probation, following the probationer's plea of guilty to or a finding of guilt of violating any provision of this chapter or chapter 565, RSMo, may be related within the third degree of consanguinity or affinity to any person who has a financial interest, whether direct or indirect, in the counseling or program of treatment, education or rehabilitation or any financial interest, whether direct or indirect, in any private entity which provides the counseling or program of treatment, education or rehabilitation. Any person who violates this subsection shall thereafter:**

(1) **Immediately remit to the state of Missouri any financial income gained as a direct or indirect result of the action constituting the violation;**

(2) **Be prohibited from providing assessment or counseling services or any program of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in contract with the state board of probation and parole or any office thereof; and**

(3) **Be prohibited from having any financial interest, whether direct or indirect, in any private entity which provides assessment or counseling services or any program of treatment, education or rehabilitation to, for, on behalf of, at the direction of, or in contract with the state board of probation and parole or any office thereof.**

566.141. ALL PROBATION OR PAROLE TO BE CONDITIONED ON RECEIVING APPROPRIATE TREATMENT. — Any person who is convicted of or pleads guilty or nolo contendere to any sexual offense involving a child shall be required as a condition of probation or parole to be involved in **and successfully complete** an appropriate treatment program. **Any**

person involved in such a program shall be required to follow all directives of the treatment program provider.

566.147. CERTAIN OFFENDERS NOT TO ESTABLISH RESIDENCY WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD-CARE FACILITY. — 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of section 565.253, RSMo, invasion of privacy; subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors; shall not establish residency within one thousand feet of any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, or child care facility as defined in section 210.201, RSMo, which is in existence at the time such residency is established.

2. If such person has already established a residence and a public school, a private school, or child care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child care facility, notify the county sheriff where such public school, private school, or child care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child care facility.

3. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violations is a class D felony.

573.037. POSSESSION OF CHILD PORNOGRAPHY. — 1. A person commits the crime of possession of child pornography if, knowing of its content and character, such person possesses any obscene material that has a child as one of its participants or portrays what appears to be a child as an observer or participant of sexual conduct.

2. Possession of child pornography is a class [A misdemeanor] **D felony** unless the person has pleaded guilty to or has been found guilty of an offense under this section, in which case it is a class [D] **C felony**.

573.040. FURNISHING PORNOGRAPHIC MATERIALS TO MINORS. — 1. A person commits the crime of furnishing pornographic material to minors if, knowing its content and character, he or she:

(1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or

(2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or

(3) Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

2. Furnishing pornographic material to minors is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense **committed at a different time** pursuant to this [section committed at a different time] **chapter, chapter 566 or chapter 568, RSMo**, in which case it is a class D felony.

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION.— 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty **or nolo contendere** to committing, or attempting to commit, a felony offense of chapter 566, RSMo, or any offense of chapter 566, RSMo, where the victim is a minor; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty **or nolo contendere** to committing, or attempting to commit one or more of the following offenses: kidnapping, pursuant to section 565.110, RSMo; felonious restraint; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; **sexual exploitation of a minor; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic material to minors; public display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first degree; promoting pornography for minors or obscenity in the second degree;** incest; abuse of a child, pursuant to section 568.060, RSMo; use of a child in a sexual performance; or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, **foreign country**, or under federal **or military** jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is required to register in another state or has been or is required to register under federal or military law; or

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis in Missouri. "Part-time" in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of conviction, release from incarceration, or placement upon probation, register with the chief law enforcement official of the county in which such person resides unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence shall register with the chief law enforcement official of such county within ten days of August 28, 2003. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town, village, or campus law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town, village, or campus law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless all offenses requiring registration are reversed, vacated or set aside or unless the registrant is pardoned of the offenses requiring registration.

4. For processing an initial sex offender registration the chief law enforcement officer of the county may charge the offender registering a fee of up to ten dollars.

5. For processing any change in registration required pursuant to section 589.414 the chief law enforcement official of the county may charge the person changing their registration a fee of five dollars for each change made after the initial registration.

589.415. PROBATION AND PAROLE OFFICERS TO NOTIFY LAW ENFORCEMENT OF SEX OFFENDER CHANGE OF RESIDENCE, WHEN — PROBATION OFFICER DEFINED. — 1. Any probation officer or parole officer assigned to a sexual offender who is required to register pursuant to sections 589.400 to 589.425, shall notify the appropriate law enforcement officials whenever the officer has reason to believe that the offender will be changing his or her residence. Upon obtaining the new address where the offender expects to reside, the officer shall report such address to the chief law enforcement official with whom the offender last registered and the chief law enforcement official of the county having jurisdiction over the new residence, if different. The officer shall also inform the offender of the offender's duty to register. However, nothing in this section shall affect the offender's duty to register, pursuant to sections 589.400 to 589.425.

2. As used in this section, the term "probation officer" includes any agent of a private entity assigned to provide probation supervision services to an offender due to the offender's status as a sexual offender who is required to register pursuant to sections 589.400 to 589.425, RSMo.

589.425. FAILURE TO REGISTER, PENALTY — SUBSEQUENT VIOLATIONS, PENALTY. —

1. Any person who is required to register pursuant to sections 589.400 to 589.425 and does not meet all requirements of sections 589.400 to 589.425 is guilty of a class A misdemeanor, **unless the person has been convicted pursuant to chapter 566 of an unclassified felony, class A felony, class B felony, or any felony involving a child under the age of fourteen, in which case the person is guilty of a class D felony.**

2. Any person who commits a second or subsequent violation of subsection 1 of this section is guilty of a class D felony, **unless the person has been convicted pursuant to chapter 566 of an unclassified felony, class A felony, class B felony, or any felony involving a child under the age of fourteen, in which case the person is guilty of a class C felony.**

660.520. STATE TECHNICAL ASSISTANCE TEAM FOR CHILD SEXUAL ABUSE CASES, DUTIES — COUNTIES MAY DEVELOP TEAM, MEMBERS — AVAILABILITY OF RECORDS. — 1. There is hereby established in the department of social services a special team, to be known as the "state technical assistance team", to assist in cases of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality. It shall be the priority of the team to focus on those cases in which more than one report has been received. [The director of family services shall be held accountable for cases reported and filed with the division.] The team shall:

(1) Provide [training, expertise and assistance to county] **assistance, expertise, and training to child protection agencies and** multidisciplinary teams for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases;

(2) Assist in the investigation of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases, upon the request of a local, **county, state, or federal** law enforcement agency, **county, state, or federal** prosecutor, [division of family services staff,] a representative of the family courts, medical examiner, coroner [or], juvenile officer, **or department of social services staff**. Upon being requested to assist in an

investigation, the state technical assistance team shall notify [all] **appropriate** parties specified in this subdivision of the team's involvement. [Where assistance has been requested by a local law enforcement agency,] State technical assistance team investigators [certified] **licensed** as peace officers by the director of the department of public safety pursuant to chapter 590, RSMo, shall be deemed to be peace officers within the [jurisdiction of the requesting law enforcement agency,] **state of Missouri** while acting [at the request of the law enforcement agency] **in an investigation or on behalf of a child**. The power of arrest of a state technical assistance team investigator acting as a peace officer shall be limited to offenses involving child abuse, child neglect, child sexual abuse, child exploitation [or], **child pornography**, child fatality, **or in situations of imminent danger to the investigator or another person**;

(3) Assist county multidisciplinary teams to develop and implement protocols for the investigation and prosecution of child abuse, child neglect, child sexual abuse, child exploitation, **child pornography**, or child fatality cases.

2. The team may call upon the expertise of the office of the attorney general, the Missouri office of prosecution services, the [missing persons unit of the] state highway patrol, the department of health and senior services, the department of mental health or any other agency **or institution**.

3. Each county may develop a multidisciplinary team for the purpose of determining the appropriate investigative and therapeutic action to be initiated on complaints referenced in subsection 1 of this section reported to the **children's** division [of family services]. The multidisciplinary team may include, but is not limited to, a prosecutor, or his or her representative, an investigator from the **children's** division [of family services], a physician, a representative from a mental health care services agency and a representative of the police agency of primary jurisdiction.

4. [The division of family services shall provide training and assistance to county multidisciplinary teams and shall assist in the investigation of child abuse, child neglect, child sexual abuse, child exploitation or child fatality cases upon the request of local law enforcement agencies, the local multidisciplinary team, or the local prosecutor.

5.] All reports and records made and maintained by the state technical assistance team or local law enforcement relating to criminal investigations conducted pursuant to this section, including arrests, shall be available in the same manner as law enforcement records, as set forth in sections 610.100 to 610.200, RSMo, and to the individuals identified in subdivision (13) of subsection 2 of section 210.150, RSMo. All other records shall be available in the same manner as provided for in section 210.150, RSMo.

Approved June 14, 2004

HB 1070 [HB 1070]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Gives boards of education of school districts authority to adopt an emergency preparedness plan to address the use of school resources in an emergency.

AN ACT to amend chapter 160, RSMo, by adding thereto one new section relating to emergency preparedness plans for schools.

SECTION

A. Enacting clause.

160.480. Emergency preparedness plans — school boards may adopt, use of facilities and resources — review by the board, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 160, RSMo, is amended by adding thereto one new section, to be known as section 160.480, to read as follows:

160.480. EMERGENCY PREPAREDNESS PLANS — SCHOOL BOARDS MAY ADOPT, USE OF FACILITIES AND RESOURCES — REVIEW BY THE BOARD, WHEN. — 1. The board of education of each school district in this state is authorized to adopt an emergency preparedness plan to address the use of school resources, including school facilities, commodity foods, school buses, and equipment if a natural disaster or other community emergency occurs.

2. The emergency preparedness plan may authorize the superintendent or other designated school officials to approve use of school resources to provide relief to the community if an emergency occurs.

3. Food assistance may be provided using commodities distributed by the United States Department of Agriculture consistent with the standards for emergency congregate feeding under such program.

4. The use of school resources under this section shall be subject to review by the board of education within thirty days of authorization or as soon as reasonably possible.

Approved June 25, 2004

HB 1071 [SCS HB 1071, 801, 1275 & 989]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes conveyance of various portions of state property.

AN ACT to authorize the governor to convey certain tracts of land, with an emergency clause for certain sections.

SECTION

1. Governor authorized to convey the National Guard Armory Building in Lawrence County to Pierce City.
2. Governor authorized to convey land in Pettis County.
3. Governor authorized to convey the National Guard Armory located in Newton County to the city of Neosho.
4. Governor authorized to convey the National Guard Armory Building located in Dent County to the city of Salem.
5. Governor authorized to convey a National Guard parking lot located in Dent County to the city of Salem.
6. Governor authorized to convey land near the National Guard Armory Building in Joplin to the city of Joplin.
7. Governor authorized to convey the Felix Building and parking lots located in Jackson County to the Truman Medical Center.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY THE NATIONAL GUARD ARMORY BUILDING IN LAWRENCE COUNTY TO PIERCE CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple

absolute in a tract of land owned by the state in the county of Lawrence known as the National Guard Armory Building to Pierce City. The property to be conveyed is more particularly described as follows:

ALL LOTS NUMBERED TWELVE (12), THIRTEEN (13), FOURTEEN (14) AND FIFTEEN (15) IN BLOCK NUMBERED TWENTY (20) OF THE ORIGINAL SURVEY OF THE CITY OF PIERCE CITY, (OR PIERCE CITY), MISSOURI.

2. Consideration for the conveyance described in this section shall be for the sum of one dollar.

3. The attorney general shall approve the form of the instrument of conveyance.

4. Upon the conveyance of the property described in this section, the building known as the National Guard Armory Building shall be known and called the Ray A. Carver Building, and shall be known by no other name as long as the building continues to exist.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY LAND IN PETTIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state in the county of Pettis. The property to be conveyed is more particularly described as follows:

BEGINNING AT A POINT IN THE WEST LINE OF THOMPSON BOULEVARD, 680.0 FEET NORTH OF THE NORTH LINE OF MISSOURI STATE ROUTE "Y" IN THE CITY OF SEDALIA, MISSOURI, SAID POINT BEING THE NORTHEAST CORNER OF A TRACT DESCRIBED IN BOOK 156 PAGE 497; THENCE SOUTH 64°34' WEST, ALONG THE NORTH LINE OF SAID TRACT, 65.19 FEET; THENCE NORTH 87°17'18" EAST, 60.15 FEET TO A POINT ON THE WEST LINE OF SAID THOMPSON BOULEVARD, 25.18 FEET SOUTH OF THE POINT OF BEGINNING; THENCE NORTH 02°45' WEST, ALONG SAID WEST LINE, 25.18 FEET TO THE POINT OF BEGINNING.

2. The commissioner of administration shall set the terms and conditions for the sale of the property, as the department deems reasonable.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY THE NATIONAL GUARD ARMORY LOCATED IN NEWTON COUNTY TO THE CITY OF NEOSHO. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property known as the National Guard Armory owned by the state in the county of Newton to the city of Neosho. The property to be conveyed is more particularly described as follows:

All that part of the North half of Lot Two (2) of the Southwest fractional quarter of Section Nineteen (19) Township Twenty-five (25) Range Thirty-one (31) described as beginning at a point where the North line of Brook street in Neosho, Mo. intersects the West line of Jefferson Street in said City, said point being fifty (50) feet North of the Northeast corner of Block Seven (7) of McCord's Addition to Neosho, Mo., and running thence North one hundred and nineteen (119) feet to the Southeast corner of a tract of land now owned and occupied by A.W. Fullerton, thence West one hundred and sixty (160) feet more or less, to a point fifty (50) feet South of a point one hundred and ninety (190) feet South of a point on the North line of the Southwest fractional quarter of Section Nineteen (19) eight hundred and ninety-seven (897) feet East of the Northwest corner thereof, thence South one hundred and nineteen (119) feet to the North line of Brook Street in Neosho, Mo., thence East one hundred and sixty (160) feet more or less to the place of beginning. It is understood and agreed that the Clyde

Burdick Post No. 163 of the American Legion at Neosho, Mo. shall have perpetual easement in the use of the building, and, or, of any building to be constructed on the above premises, and the use of said premises, so long as such does not conflict with the interest of the above grantee in using said building and premises as an armory.

2. The deed shall establish a perpetual easement for the benefit of the Clyde Burdick Post No. 163 of the American Legion at Neosho, Missouri, in the use of any building on or to be constructed on the premises, and the use of the premises, so long as such does not conflict with the interest of the grantee in using the building and premises while owned by a public governmental body.

3. Consideration for the conveyance described in subsection 1 of this section shall be for the sum of one dollar.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO CONVEY THE NATIONAL GUARD ARMORY BUILDING LOCATED IN DENT COUNTY TO THE CITY OF SALEM. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey to the city of Salem all interest in fee simple absolute in property owned by the state in the county of Dent, known as the National Guard Armory Building, in the city of Salem. The property to be conveyed is more particularly described as follows:

All that part of the Southeast quarter of the Northwest quarter of Section Thirteen (13), Township Thirty four (34) North, Range Six (6) West, described as follows: Beginning at a point on the north right-of-way line of State Highway "J" that is 438.5 feet east of the west line of said Southeast quarter of the Northwest quarter, thence north 387 feet, thence east 225 feet, thence south 387 feet, more or less, to the north right-of-way line of State Highway "J", thence westerly along said north right-of-way line of State Highway "J" to the place of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale. Consideration for the conveyance shall be the sum of five dollars.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO CONVEY A NATIONAL GUARD PARKING LOT LOCATED IN DENT COUNTY TO THE CITY OF SALEM. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey to the city of Salem all interest in fee simple absolute in property owned by the state in the county of Dent, now used as a parking lot for the motor vehicles of the National Guard, in the city of Salem. The property to be conveyed is more particularly described as follows:

A part of the Northeast Quarter of the Southwest Quarter of Section 13, Township 34 North, Range 6 West, described as follows: Beginning at a point on the North line of said forty which is 260 feet East of the Northwest corner thereof; thence South 340 feet to the North property line of land conveyed to Housing Authority of the City of Salem, Missouri; thence East 400 feet; thence North 80 feet; thence West 50 feet; thence North 260 feet to the North line of said forty; thence west to the place of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale. Consideration for the conveyance shall be the sum of five dollars.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO CONVEY LAND NEAR THE NATIONAL GUARD ARMORY BUILDING IN JOPLIN TO THE CITY OF JOPLIN. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state in the county of Newton near the National Guard Armory Building in Joplin to the City of Joplin. The property to be conveyed is more particularly described as follows:

Part of the Northeast Quarter of Section 21, Township 27, Range 33, City of Joplin, Newton County, Missouri, described as follows: Commencing at the Northwest corner of the Northeast Quarter of said Section 21; thence South 01 degrees, 42 minutes, 35 seconds West along the west line of said Northeast Quarter 50.01 feet; thence South 89 degrees, 36 minutes, 28 seconds East and parallel with the North line of said Northeast Quarter 1404.01 feet to the Point of Beginning; thence South 01 degrees, 42 minutes, 35 seconds West 500.0 feet; thence South 89 degrees, 36 minutes, 28 seconds East 8.88 feet; thence North to the Point of Beginning and containing 2,220 square feet, more or less.

2. Consideration for the conveyance described in this section shall be for the sum of one dollar.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO CONVEY THE FELIX BUILDING AND PARKING LOTS LOCATED IN JACKSON COUNTY TO THE TRUMAN MEDICAL CENTER. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Jackson County known as the Felix Building and parking lots as provided in subsection 2 of this section to the Truman Medical Center. The property to be conveyed is as follows:

THE PROPERTY KNOWN AS THE FELIX BUILDING:

Lots 1, 2, 3, 4, 5, 6, 7, and 8 and the West 7.5 feet of Lot 9 and Lots 24, 25, 26, 27, and 28, together with the West 162.5 feet of the alley between Charlotte Street and Campbell Street next South of 22nd Street lying North of and adjacent to said Lot 24, GRANDVIEW SUBDIVISION OF BLOCK 11, BOUTON'S ADDITION, a Subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof; and

THE PROPERTY KNOWN AS THE GATED PARKING LOT:

All lots 25, 26, and 27, except part in alley, HOME PARK, all of Block 5 BOUTON'S ADDITION, except part in alley, together with that part of the South half of 21st Street, as said Street was vacated by Ordinance No. 21525, passed May 17, 1957, from the East line of the North-South alley next West of Charlotte Street to the West line of Charlotte Street lying North of and adjoining Block 5, BOUTON'S ADDITION, both subdivisions in Kansas City, Jackson County, Missouri, said part being described as follows:

The South 15 feet of the South half of said vacated 21st Street.

Subject to restrictions, easements, covenants, and reservations now of record but including all the underlying fee title owned by Grantor to streets and alleys adjoining the described land.

2. The sale price of the property shall be one million dollars. The commissioner of administration shall set the terms and conditions for the transfer or sale as the commissioner deems reasonable. Such terms and conditions may also include, but are not limited to, the time, place, and terms of the sale. All costs and fees directly related to such sale shall be paid from the proceeds of such sale. All proceeds received for such sale in excess of the costs shall be used to assist in the funding of the construction or repair or maintenance of state facilities.

3. The attorney general shall approve as to the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because of the devastation caused by the May 4, 2003, tornadoes and the need to rebuild this devastated community by allowing the transfer of property to enhance the city's ability to function as an effective political subdivision and because immediate action is necessary to maintain an existing facility which includes a telecommunications resource center and to allow for use of the building for summer youth activities, sections 1, 4, and 5 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 1, 4, and 5 of this act shall be in full force and effect upon its passage and approval.

Approved June 16, 2004

HB 1074 [HCS HB 1074 & 1129]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes it a crime to burn a cross with the intent to intimidate any person or group of persons.

AN ACT to amend chapter 565, RSMo, by adding thereto one new section relating to cross burning, with a penalty provision.

SECTION

A. Enacting clause.

565.095. Cross burning prohibited, penalty — intent defined.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 565, RSMo, is amended by adding thereto one new section, to be known as section 565.095, to read as follows:

565.095. CROSS BURNING PROHIBITED, PENALTY — INTENT DEFINED. — **1. It shall be unlawful for any person or persons with the intent to intimidate any person or group of persons, to burn, or cause to be burned, a cross. Any person who shall violate any provision of this section shall be guilty of a class A misdemeanor for a first offense and a class D felony for a second or subsequent offense.**

2. For purposes of this section, a person acts with the intent to intimidate when he or she intentionally places or attempts to place another person in fear of physical injury or fear of damage to property.

Approved June 14, 2004

HB 1090 [HCS HB 1090]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows property insurance for real estate transferred by beneficiary deed to automatically continue with the grantee for a specified period of time.

AN ACT to amend chapter 379, RSMo, by adding thereto one new section relating to property insurance for real property transferring upon death.

SECTION

- A. Enacting clause.
379.808. Insurance policies on certain real property — beneficiary deemed insured, duration, others covered not affected, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 379, RSMo, is amended by adding thereto one new section, to be known as section 379.808, to read as follows:

379.808. INSURANCE POLICIES ON CERTAIN REAL PROPERTY — BENEFICIARY DEEMED INSURED, DURATION, OTHERS COVERED NOT AFFECTED, WHEN. — **In addition to any other coverage provided under an insurance policy on real property transferred by a deed described in section 461.025, RSMo, the designated grantee beneficiary shall be deemed to be an insured party under the policy for the period from the date of the owner's death until the first to occur of:**

- (1) **The date that is thirty days after the owner's death;**
- (2) **The end of the policy period, determined as if the owner was still living; or**
- (3) **The date the designated grantee beneficiary obtains alternative coverage.**

Nothing in this section shall affect any coverage provided under the policy to household members or others who are deemed to be insureds upon the death of the owner.

Approved June 21, 2004

HB 1107 [HB 1107]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits owners of property adjacent to transportation districts to petition to be added to the district.

AN ACT to amend chapter 238, RSMo, by adding thereto one new section relating to property adjacent to certain transportation districts.

SECTION

- A. Enacting clause.
238.208. Annexation of property adjacent to a transportation district, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 238, RSMo, is amended by adding thereto one new section, to be known as section 238.208, to read as follows:

238.208. ANNEXATION OF PROPERTY ADJACENT TO A TRANSPORTATION DISTRICT, PROCEDURE. — **The owners of property adjacent to a transportation district formed under the Missouri transportation development district act may petition the court by unanimous petition to add their property to the district. If the property owners within the transportation development district unanimously approve of the addition of property, the**

adjacent properties in the petition shall be added to the district. Any property added under this section shall be subject to all projects, taxes, and special assessments in effect as of the date of the court order adding the property to the district. The owners of the added property shall be allowed to vote at the next election scheduled for the district to fill vacancies on the board and on any other question submitted to them by the board under this chapter. The owners of property added under this section shall have one vote per acre in the same manner as provided in subdivision (2) of subsection 2 of section 238.220.

Approved June 21, 2004

HB 1114 [HB 1114]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows survivors of peace officers and firefighters killed in the line of duty to receive special license plates.

AN ACT to amend chapter 301, RSMo, by adding thereto two new sections relating to special license plates.

SECTION

- A. Enacting clause.
- 301.3128. To Protect and Serve special license plates, application, fee.
- 301.3129. Firefighters, special license plates — fee, appearance of plate, application procedure — definition of person eligible for plate — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto two new sections, to be known as sections 301.3128 and 301.3129, to read as follows:

301.3128. TO PROTECT AND SERVE SPECIAL LICENSE PLATES, APPLICATION, FEE. —

1. Any person, as defined by subsection 3 of this section, may apply for special license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any person desiring a special license plate as provided by this section shall make an application for the special license plates on a form provided by the director of revenue and furnish proof of eligibility as the director may require.

2. Upon payment of a fifteen-dollar fee in addition to the registration fee and other documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear an insignia depicting a yellow rose superimposed over the outline of a badge and shall bear the words "TO PROTECT AND SERVE" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. As used in this section the term "person" shall mean:

- (1) A person wounded in the line of duty as a peace officer; or
 - (2) A surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a peace officer.
-

4. As used in this section, the term "peace officer" has the same meaning assigned by section 590.010, RSMo.

5. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3129. FIREFIGHTERS, SPECIAL LICENSE PLATES — FEE, APPEARANCE OF PLATE, APPLICATION PROCEDURE — DEFINITION OF PERSON ELIGIBLE FOR PLATE — RULEMAKING AUTHORITY. — 1. Any person, as defined by subsection 3 of this section, may apply for special license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any person desiring a special license plate as provided by this section shall make an application for the special license plates on a form provided by the director of revenue and furnish proof of eligibility as the director may require.

2. Upon payment of a fifteen-dollar fee in addition to the registration fee and other documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear an insignia designed by the director or the director's designee and shall bear the words "FIREFIGHTERS MEMORIAL" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. As used in this section the term "person" shall mean:

- (1) A person wounded in the line of duty as a firefighter; or
- (2) A surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a firefighter.

4. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

Approved July 1, 2004

HB 1115 [HCS HB 1115]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prevents frivolous lawsuits against food manufacturers, packers, distributors, sellers, marketers, etc.

AN ACT to amend chapter 537, RSMo, by adding thereto one new section relating to the commonsense consumption act, with an effective date.

SECTION

A. Enacting clause.

537.900. Citation — definitions — immunity from liability for claims relating to weight gain or obesity, when, exceptions — petition, contents — effective date.

B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.900, to read as follows:

537.900. CITATION — DEFINITIONS — IMMUNITY FROM LIABILITY FOR CLAIMS RELATING TO WEIGHT GAIN OR OBESITY, WHEN, EXCEPTIONS — PETITION, CONTENTS — EFFECTIVE DATE. — 1. This section may be known as the "Commonsense Consumption Act".

2. As used in this section, the following terms mean:

(1) "Claim", any claim by or on behalf of a natural person, as well as any derivative or other claim arising therefrom asserted by or on behalf of any other person;

(2) "Generally known condition allegedly caused by or allegedly likely to result from long-term consumption", a condition generally known to result or to likely result from the cumulative effect of consumption and not from a single instance of consumption;

(3) "Knowing or willful violation of federal or state law", that:

(a) The conduct constituting the violation was committed with the intent to deceive or injure consumers or with actual knowledge that such conduct was injurious to consumers; and

(b) The conduct constituting the violation was not required by regulations, orders, rules, or other pronouncements of, or statutes administered by, a federal, state, or local government agency;

(4) "Other person", any individual, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity, including any governmental entity or private attorney general.

3. Except as exempted in subsection 4 of this section, a manufacturer, packer, distributor, carrier, holder, seller, marketer, retailer, or advertiser of a food, as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)), as amended, but shall not include alcoholic beverages, or an association of one or more such entities shall not be subject to civil liability under any state law, including all statutes, regulations, rules, common law, public policies, court or administrative decisions or decrees, or other state actions having the effect of law, for any claim arising out of weight gain, obesity, or a health condition associated with weight gain or obesity.

4. The provisions of subsection 3 of this section shall not preclude civil liability where the claim of weight gain, obesity, health condition associated with weight gain or obesity, or other generally known condition allegedly caused by or allegedly likely to result from long-term consumption of food is based on:

(1) A material violation of an adulteration or misbranding requirement prescribed by statute or regulation of the state of Missouri or the United States and the claimed injury was proximately caused by such violation; or

(2) Any other material violation of federal or state law applicable to the manufacturing, marketing, distribution, advertising, labeling, or sale of food, provided that such violation is knowing and willful, and the claimed injury was proximately caused by such violation.

The provisions of subsection 3 of this section shall not preclude civil liability for breach of express contract or express warranty in connection with the purchase of food.

5. In any action exempted under subdivision (1) or (2) of subsection 4 of this section, the petition initiating such action shall state with particularity the following: the statute, regulation, or other state or federal law that was allegedly violated, the facts that are alleged to constitute a material violation of such statute or regulation, and the facts alleged to demonstrate that such violation proximately caused actual injury to the plaintiff. In any action exempted under subdivision (2) of subsection 4 of this section, the petition initiating such action shall also state with particularity facts sufficient to support a reasonable inference that the violation occurred with the intent to deceive or injure consumers or with the actual knowledge that such violation was injurious to consumers. For purposes of applying this section the pleading requirements under this section are deemed part of state substantive law and not merely procedural provisions.

6. In any action exempted under subsection 4 of this section, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence, resolve the motion to dismiss, or to prevent undue prejudice to that party. During the pendency of any stay of discovery under this subsection and unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the petition shall treat all documents, data compilations, including electronically recorded or stored data, and tangible objects that are in the custody or control of such party that are relevant to the allegations as if they were the subject of a continuing request for production of documents from an opposing party under the Missouri rules of civil procedure.

7. The provisions of this section shall apply to all covered claims pending on or filed after the effective date of this section, regardless of when the claim arose.

SECTION B. EFFECTIVE DATE. — Section A of this act shall become effective on January 1, 2005.

Approved June 25, 2004

HB 1126 [HB 1126]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the procedure for detachment from certain watershed districts.

AN ACT to repeal section 278.258, RSMo, and to enact in lieu thereof one new section relating to detachment from watershed districts.

SECTION

A. Enacting clause.

278.258. Detachment from watershed subdistrict, procedure — certification by trustees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 278.258, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 278.258, to read as follows:

278.258. DETACHMENT FROM WATERSHED SUBDISTRICT, PROCEDURE — CERTIFICATION BY TRUSTEES. — 1. After a watershed subdistrict has been organized and the organization tax pursuant to section 278.250 has been levied, any county in the subdistrict which has not adopted the annual tax pursuant to section 278.250 may detach from the subdistrict upon approval of such detachment of a majority of the qualified voters [residing] **voting on the proposed detachment** within such subdistrict in such county; however, before such detachment the watershed district trustees shall make arrangements for the county to pay any outstanding indebtedness for services or works of improvement rendered by the subdistrict in such county.

2. Following the entry in the official minutes of the trustees of the watershed district of the detachment of the county, the watershed district trustees shall certify this fact on a separate form, authentic copies of which shall be recorded with the recorder of deeds in each county in which any portion of the watershed subdistrict lies and with the state soil and water districts commission.

Approved June 30, 2004

HB 1136 [SCS HCS HB 1136]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts the Disposition of Fetal Remains Act.

AN ACT to repeal sections 193.165 and 193.255, RSMo, and to enact in lieu thereof eight new sections relating to miscarriages and stillbirths.

SECTION

- A. Enacting clause.
- 193.165. Spontaneous fetal death report — release of reports — application for certificate of birth resulting in stillbirth, procedure.
- 193.255. Certified copies of vital records, issuance — probative value — cooperation with federal agencies and other states — issuance of certificate of birth resulting in stillbirth, when.
- 194.375. Citation of law — definitions.
- 194.378. Final disposition of fetal remains, mother has right to determine.
- 194.381. Means of disposition.
- 194.384. Written standards required for protection of mother's right to determine final disposition.
- 194.387. Miscarriage — mother's right to determine final disposition of remains — counseling made available, when.
- 194.390. Right to legal abortion not affected.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 193.165 and 193.255, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 193.165, 193.255, 194.375, 194.378, 194.381, 194.384, 194.387, and 194.390 to read as follows:

193.165. SPONTANEOUS FETAL DEATH REPORT — RELEASE OF REPORTS — APPLICATION FOR CERTIFICATE OF BIRTH RESULTING IN STILLBIRTH, PROCEDURE. —

1. Each spontaneous fetal death of twenty completed weeks gestation or more, calculated from the date the last normal menstrual period began to the date of delivery, or a weight of three hundred fifty grams or more, which occurs in this state shall be reported within seven days after delivery to the local registrar or as otherwise directed by the state registrar.

2. When a dead fetus is delivered in an institution, the person in charge of the institution or his or her designated representative shall prepare and file the report.

3. When a dead fetus is delivered outside an institution, the physician in attendance at or immediately after delivery shall prepare and file the report.

4. When a spontaneous fetal death required to be reported by this section occurs without medical attendance at or immediately after the delivery or when inquiry is required by the medical examiner or coroner, the medical examiner or coroner shall investigate the cause of spontaneous fetal death and shall prepare and file the report within seven days.

5. When a spontaneous fetal death occurs in a moving conveyance and the fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of the spontaneous fetal death is unknown, the spontaneous fetal death shall be reported in this state. The place where the fetus was first removed from the conveyance or the dead fetus was found shall be considered the place of the spontaneous fetal death.

6. [The spontaneous fetal death report required pursuant to this section is a statistical report to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics. A schedule for the disposition of these reports may be provided by department rules.] Notwithstanding any provision of law to the contrary, individuals with direct and tangible interest, as defined by the department of health and senior services, may receive the spontaneous fetal death report.

7. In the event of a spontaneous fetal death, regardless of whether such death occurs before or after the effective date of this subsection, either parent, or if both parents are deceased, a sibling of the stillborn child, shall have the right to file an application with the state registrar and other custodians of vital records requesting a certificate of birth resulting in stillbirth. The certificate shall be based upon the information available from the spontaneous fetal death report filed pursuant to this section.

193.255. CERTIFIED COPIES OF VITAL RECORDS, ISSUANCE — PROBATIVE VALUE — COOPERATION WITH FEDERAL AGENCIES AND OTHER STATES — ISSUANCE OF CERTIFICATE OF BIRTH RESULTING IN STILLBIRTH, WHEN. —

1. The state registrar and other custodians of vital records authorized by the state registrar to issue certified copies of vital records upon receipt of application shall issue a certified copy of any vital record in his custody or a part thereof to any applicant having a direct and tangible interest in the vital record. Each copy issued shall show the date of registration, and copies issued from records marked "Delayed" or "Amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the state shall be provided or approved by the state registrar.

2. A certified copy of a vital record or any part thereof, issued in accordance with subsection 1 of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein, provided that the evidentiary value of a certificate or record filed more than one year after the event, or a record which has been amended, shall be determined by the judicial or administrative body or official before whom the certificate is offered as evidence.

3. The federal agency responsible for national vital statistics may be furnished such copies or data from the system of vital statistics as it may require for national statistics, provided such federal agency share in the cost of collecting, processing, and transmitting such data, and

provided further that such data shall not be used for other than statistical purposes by the federal agency unless so authorized by the state registrar.

4. Federal, state, local and other public or private agencies may, upon request, be furnished copies or data of any other vital statistics not obtainable under subsection 1 of this section for statistical or administrative purposes upon such terms or conditions as may be prescribed by regulation, provided that such copies or data shall not be used for purposes other than those for which they were requested unless so authorized by the state registrar.

5. The state registrar may, by agreement, transmit copies of records and other reports required by sections 193.005 to 193.325 to offices of vital statistics outside this state when such records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. This agreement shall require that the copies be used for statistical and administrative purposes only, and the agreement shall further provide for the retention and disposition of such copies. Copies received by the department from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

6. No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record except as authorized herein or by regulations adopted hereunder.

7. Upon application from either parent, or if both parents are deceased, the sibling of the stillborn child, pursuant to subsection 7 of section 193.165, the state registrar or other custodians of vital records shall issue to such applicant a certificate of birth resulting in stillbirth. The certificate shall be based upon the information available from the spontaneous fetal death report filed pursuant to section 193.165. Any certificate of birth resulting in stillbirth issued shall conspicuously include, in no smaller than 12-point type, the statement "This is not proof of a live birth." No certificate of birth resulting in stillbirth shall be issued to any person other than a parent, or if both parents are deceased, the sibling of the stillborn child who files an application pursuant to section 193.165. The state registrar or other custodians of vital records is authorized to charge a minimal fee to such applicant to cover the actual costs of providing the certificate pursuant to this section.

8. Any parent, or if both parents are deceased, any sibling of the stillborn child may file an application for a certificate of birth resulting in stillbirth for a birth that resulted in stillbirth prior to August 28, 2004.

194.375. CITATION OF LAW — DEFINITIONS. — 1. Sections 194.375 to 194.390 shall be known and may be cited as the "Disposition of Fetal Remains Act".

2. As used in sections 194.375 to 194.390, the following terms mean:

(1) "Final disposition", the burial, cremation, or other disposition of the remains of a human fetus following a spontaneous fetal demise occurring after a gestation period of less than twenty completed weeks;

(2) "Remains of a human fetus", the fetal remains or fetal products of conception of a mother after a miscarriage, regardless of the gestational age or whether the remains have been obtained by spontaneous or accidental means.

194.378. FINAL DISPOSITION OF FETAL REMAINS, MOTHER HAS RIGHT TO DETERMINE. — In every instance of fetal death, the mother has the right to determine the final disposition of the remains of the fetus, regardless of the duration of the pregnancy. The mother may choose any means of final disposition authorized by law or by the director of the department of health and senior services.

194.381. MEANS OF DISPOSITION. — 1. The final disposition of the remains of a human fetus may be by cremation, interment by burial, incineration in an approved medical waste incinerator, or other means authorized by the director of the department of health and senior services. The disposition shall be in accordance with state law or

administrative rules providing for the disposition. If the remains are disposed of by incineration, the remains shall be incinerated separately from other medical waste.

2. No religious service or ceremony is required as part of the final disposition of the remains of a human fetus.

194.384. WRITTEN STANDARDS REQUIRED FOR PROTECTION OF MOTHER'S RIGHT TO DETERMINE FINAL DISPOSITION. — Every hospital, outpatient birthing clinic, and any other health care facility licensed to operate in this state shall adopt written standards for the final disposition of the remains of a human fetus as provided in sections 194.375 to 194.390 for protection of a mother's right pursuant to section 194.378 and for notice as required in section 194.387.

194.387. MISCARRIAGE — MOTHER'S RIGHT TO DETERMINE FINAL DISPOSITION OF REMAINS — COUNSELING MADE AVAILABLE, WHEN. — 1. Within twenty-four hours after a miscarriage occurs spontaneously or accidentally at a hospital, outpatient birthing clinic, or any other health care facility, the facility shall disclose to the mother of the miscarried fetus, both orally and in writing, the mother's right to determine the final disposition of the remains of the fetus. The facility's disclosure shall include giving the mother a copy of the facility's written standards adopted pursuant to section 194.384.

2. The facility shall make counseling concerning the death of the fetus available to the mother. The facility may provide the counseling or refer the mother to another provider of appropriate counseling services.

194.390. RIGHT TO LEGAL ABORTION NOT AFFECTED. — Nothing in sections 194.375 to 194.390 shall be construed to prohibit a woman's ability to obtain a legal abortion.

Approved July 2, 2004

HB 1149 [HB 1149]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates a bridge over a portion of Interstate 44 in Phelps County the "Trooper Mike L. Newton Memorial Bridge".

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the Trooper Mike L. Newton Memorial Bridge.

SECTION

A. Enacting clause.

227.348. Trooper Mike L. Newton Memorial Bridge designated for Interstate 44 bridge located in Phelps County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.348, to read as follows:

227.348. TROOPER MIKE L. NEWTON MEMORIAL BRIDGE DESIGNATED FOR INTERSTATE 44 BRIDGE LOCATED IN PHELPS COUNTY. — The bridge on eastbound and westbound Interstate 44 crossing the Little Piney Creek in Phelps County shall be

designated the "Trooper Mike L. Newton Memorial Bridge". The department of transportation shall erect and maintain appropriate signs commemorating such bridge, with costs to be paid for by the Missouri State Troopers' Association.

Approved July 2, 2004

HB 1167 [HB 1167]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a special license plate for members of the Missouri Foxtrotting Horse Breed Association.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to special license plates.

SECTION

A. Enacting clause.

301.3126. Fox trotter — state horse special license plates, application, fee.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.3126, to read as follows:

301.3126. FOXTROTTER — STATE HORSE SPECIAL LICENSE PLATES, APPLICATION, FEE.

— 1. Any member of the Missouri Foxtrotting Horse Breed Association may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri Foxtrotting Horse Breed Association of which the person is a member. The Missouri Foxtrotting Horse Breed Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Foxtrotting Horse Breed Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Foxtrotting Horse Breed Association. Any member of the Missouri Foxtrotting Horse Breed Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri Foxtrotting Horse Breed Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Foxtrotting Horse Breed Association and shall bear the words "FOXTROTTER -STATE HORSE" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Missouri Foxtrotting Horse Breed Association emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Foxtrotting Horse Breed Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved July 1, 2004

HB 1171 [HCS HB 1171]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Facilitates joint municipal utility projects.

AN ACT to repeal sections 393.705, 393.710, 393.715, 393.720, 393.725, 393.730, 393.740, 393.745, 393.760, and 393.770, RSMo, and to enact in lieu thereof ten new sections relating to joint municipal utility projects.

SECTION

- A. Enacting clause.
- 393.705. Definitions.
- 393.710. Municipalities, public water supply districts and sewer districts may form commission — purposes — contents of contract — board of directors.
- 393.715. Powers of commission — purchase of private water utility serving outside municipal limits, effect — successorship, continued and new service authorized, when.
- 393.720. Commissions to be bodies public and corporate.
- 393.725. Bonds issued to be revenue bonds only — form of bonds.
- 393.730. Requirements of resolution authorizing bonds.
- 393.740. Certain taxes applicable.
- 393.745. Refunding bonds may be issued.
- 393.760. Election on issuance of bonds — required actions — notice — conduct of election — form of ballot — alternative voting procedures.
- 393.770. Purchase agreements authorized — terms — not to constitute debt.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 393.705, 393.710, 393.715, 393.720, 393.725, 393.730, 393.740, 393.745, 393.760, and 393.770, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 393.705, 393.710, 393.715, 393.720, 393.725, 393.730, 393.740, 393.745, 393.760, and 393.770, to read as follows:

393.705. DEFINITIONS. — As used in sections 393.700 to 393.770, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

- (1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770;
 - (2) "Commission", any joint municipal utility commission established by a joint contract pursuant to sections 393.700 to 393.770;
 - (3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission pursuant to sections 393.700 to 393.770, a water supply district
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formed pursuant to the provisions of chapter 247, RSMo, or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;

(4) "Joint contract", the contract entered into among or by and between two or more of the following contracting entities for the purpose of establishing a commission:

- (a) Municipalities;
- (b) Public water supply districts;
- (c) Sewer districts;
- (d) Nonprofit water companies; or
- (e) Nonprofit sewer companies;

(5) **"Participating municipality", a municipality, public water supply district, or sewer district acting in concert with a commission in the development of a project but providing separate financing to acquire an individual interest in the project;**

(6) "Person", a natural person, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing pursuant to the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of this state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;

[(6)] (7) "Project", the purchasing, construction, extending or improving of any **utility facility or property including without limitation** revenue-producing water, sewage, gas or electric light works, heating or power plants, **transmission and distribution systems, and all other types of utilities and revenue-producing facilities as deemed appropriate by the governing bodies of the contracting or participating municipalities**, including all real and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, [used or useful in the generation, production, transmission, distribution excluding retail sales, purchase, sale, exchange, transport and treatment of sewage or interchange of water, sewage, electric power and energy,] or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

393.710. MUNICIPALITIES, PUBLIC WATER SUPPLY DISTRICTS AND SEWER DISTRICTS MAY FORM COMMISSION — PURPOSES — CONTENTS OF CONTRACT — BOARD OF DIRECTORS. — 1. Municipalities, public water supply districts, and sewer districts may, by joint contract, establish a [separate] governmental entity to be known as a joint municipal utility commission, to effect the joint development of [water, sewer, gas, or electric light works, heating and power plants, or production, distribution and transmission of electric power and energy] **a project or projects** in whole or in part for the benefit of the inhabitants of such municipalities, **public water supply districts and sewer districts.**

2. Any joint contract establishing a commission under this section shall specify:

(1) The name and purpose of the commission and the functions or services to be provided by the commission;

(2) The establishment and organization of a governing body of a commission which shall be a board of directors in which all powers of the commission are vested. The joint contract may provide for the creation by the board of an executive committee of the board to which the powers and duties **of the board** may be delegated as the board **or state statute** shall specify;

(3) The number of directors, the manner of their appointment, terms of office and compensation, if any, and the procedure for filling vacancies on the board. Each contracting municipality, public water supply district, and sewer district shall have the power to appoint one member and an alternate to the board of directors and shall be entitled to remove that member and alternate at will;

(4) The manner of selection of the officers of the commission and their duties;

(5) The voting requirements for action by the board, but, unless specifically provided otherwise, a majority of directors shall constitute a quorum and a majority of the quorum shall be necessary for any action taken by the board;

(6) The duties of the board which shall include the obligation to comply or to cause compliance with this section and the laws of the state and, in addition, with each and every term, provision and covenant in the joint contract creating the commission on its part to be kept or performed;

(7) The manner in which additional municipalities, public water supply districts, and sewer districts may become parties to the joint contract;

(8) The manner of financing the [district] **commission** and of establishing and maintaining a budget and annual audit for the [district] **commission**;

(9) The ownership interests of the contracting municipality electric cooperative associations, municipally owned or public utilities in a project or the manner of determining such ownership interest, which ownership interest shall be subject to any mortgage of a project pursuant to section 393.735;

(10) Provisions for the disposition, division or distribution of any property or assets of the commission on dissolution; and

(11) The term of the joint contract, which may be a definite period or until rescinded or terminated, and the method, if any, by which the joint contract may be rescinded or terminated so long as the commission has no bonds outstanding, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

3. A commission shall, if the joint contract so provides, be the successor to any nonprofit corporation, agency, or another entity theretofore organized by the contracting municipalities to provide the same function, service or facility, and the commission shall be entitled to all rights and privileges and shall assume all obligations and liabilities of such other entity under existing contracts to which such other entity is a party.

393.715. POWERS OF COMMISSION — PURCHASE OF PRIVATE WATER UTILITY SERVING OUTSIDE MUNICIPAL LIMITS, EFFECT — SUCCESSORSHIP, CONTINUED AND NEW SERVICE AUTHORIZED, WHEN. — 1. The general powers of a commission to the extent provided in section 393.710 **to be exercised for the benefit of its contracting members** shall include the power to:

(1) Plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more projects, either exclusively or jointly or by participation with electric cooperative associations, municipally owned or public utilities or acquire any interest in or any rights to capacity of a project, within or outside the state, and act as an agent, or designate one or more other persons participating in a project to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension or improvement of such project;

(2) Acquire, sell, distribute and process fuels necessary to the production of electric power and energy; provided, however, the commission shall not have the power or authority to erect, own, use or maintain a transmission line which is parallel or generally parallel to another transmission line in place within a distance of two miles, which serves the same general area sought to be served by the commission unless the public service commission finds that it is not feasible to utilize the transmission line which is in place;

(3) Acquire by purchase or lease, construct, install, and operate reservoirs, pipelines, wells, check dams, pumping stations, water purification plants, and other facilities for the production, wholesale distribution, and utilization of water and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization; provided, however, that a commission shall not sell or distribute water, at retail or wholesale, within the certificated area of a water corporation which is subject to the jurisdiction of the public service commission unless the sale or distribution of water is within the boundaries of a public water supply district or municipality which is a contracting municipality in the commission and the commission has

obtained the approval of the public service commission prior to commencing such said sale or distribution of water;

(4) Acquire by purchase or lease, construct, install, and operate lagoons, pipelines, wells, pumping stations, sewage treatment plants and other facilities for the treatment and transportation of sewage and to own and hold such real and personal property as may be necessary to carry out the purposes of its organization;

(5) Enter into operating, franchises, exchange, interchange, pooling, wheeling, transmission and other similar agreements with any person;

(6) Make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the commission;

(7) Employ agents and employees;

(8) Contract with any person, within or outside the state, for the construction of any project or for any interest therein or any right to capacity thereof, without advertising for bids, preparing final plans and specifications in advance of construction, or securing performance and payment of bonds, except to the extent and on such terms as its board of directors **or executive committee** shall determine. Any contract entered into pursuant to this subdivision shall contain a provision that the requirements of sections 290.210 to 290.340, RSMo, shall apply;

(9) Purchase, sell, exchange, transmit, treat, dispose or distribute water, sewage, gas, heat or electric power and energy, or any by-product resulting therefrom, within and outside the state, in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, treatment, disposal or transmission, on such terms and for such period of time as its board of directors **or executive committee** shall determine. A commission may not sell or distribute water, gas, heat or power and energy, or sell sewage service at retail to ultimate customers outside the boundary limits of its contracting municipalities except pursuant to subsection 2 or 3 of this section;

(10) Acquire, own, hold, use, lease, as lessor or lessee, sell or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity or service or interest therein;

(11) Exercise the powers of eminent domain for public use as provided in chapter 523, RSMo, except that the power of eminent domain shall not be exercised against any electric cooperative association, municipally owned or public utility;

(12) Incur debts, liabilities or obligations including the issuance of bonds pursuant to the authority granted in section 27 of article VI of the Missouri Constitution;

(13) Sue and be sued in its own name;

(14) Have and use a corporate seal;

(15) Fix, maintain and revise fees, rates, rents and charges for functions, services, facilities or commodities provided by the commission;

(16) Make, and from time to time, amend and repeal, bylaws, rules and regulations not inconsistent with this section to carry into effect the powers and purposes of the commission;

(17) Notwithstanding the provisions of any other law, invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities and other investments as the commission deems proper;

(18) Join organizations, membership in which is deemed by the board of directors **or its executive committee** to be beneficial to accomplishment of the commission's purposes;

(19) Exercise any other powers which are deemed necessary and convenient by the commission to effectuate the purposes of the commission; and

(20) Do and perform any acts and things authorized by this section under, through or by means of an agent or by contracts with any person.

2. When a municipality purchases a privately owned water utility and a commission is created pursuant to sections 393.700 to 393.770, the commission may continue to serve those

locations previously receiving water from the private utility even though the location receives such service outside the geographical area of the municipalities forming the commission. New water service may be provided in such areas if the site to receive such service is located within one-fourth of a mile from a site serviced by the privately owned water utility.

3. When a commission created by any of the contracting entities listed in subdivision (4) of section 393.705 becomes a successor to any nonprofit water corporation, nonprofit sewer corporation or other nonprofit agency or entity organized to provide water or sewer service, the commission may continue to serve, as well as provide new service to, those locations and areas previously receiving water or sewer service from such nonprofit entity, regardless of whether or not such location receives such service outside the geographical service area of the contracting entities forming such commission; provided that such locations and areas previously receiving water and sewer service from such nonprofit entity are not located within:

(1) Any county of the first classification with a population of more than six hundred thousand and less than nine hundred thousand;

(2) The boundaries of any sewer district established pursuant to article VI, section 30(a) of the Missouri Constitution; or

(3) The certificated area of a water or sewer corporation that is subject to the jurisdiction of the public service commission.

393.720. COMMISSIONS TO BE BODIES PUBLIC AND CORPORATE. — Any commission established by joint contract under sections 393.700 to 393.770 shall constitute a [political subdivision and] body public and corporate of the state, exercising public powers[, separate from the contracting municipalities] **for the benefit of its contracting members and in order to carry out the public purposes and the public functions of its contracting members.** It shall have the duties, privileges, immunities, rights, liabilities and disabilities of **its contracting members and as a public body politic and corporate** but shall not have taxing power **separate from that of its members** nor shall it have the benefit of the doctrine of sovereign immunity.

393.725. BONDS ISSUED TO BE REVENUE BONDS ONLY — FORM OF BONDS. — 1. Bonds issued pursuant to sections 393.700 to 393.770 by a commission shall be payable, as to the principal and interest, solely from the net revenues derived [by the commission] from the operation of **any one or more of the [commission's project or] projects financed by the commission,** after providing for the costs of operation and maintenance of the [commission's] project or projects, or from any other funds made available to the commission from sources other than from proceeds of taxation.

2. Each bond issued pursuant to the provisions of sections 393.700 to 393.770 shall contain a statement that such bond is not an indebtedness of the state, or of any political subdivision thereof, other than the joint municipal utility commission, or of the contracting municipalities, the contracting public water supply districts or the contracting sewer districts, but shall be special obligations of the commission only and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof, or of the contracting municipalities, contracting public water supply districts or contracting sewer districts is pledged to the payment of or the interest on such bonds. The bonds shall not be deemed to be an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. Neither the members of the board of directors of a commission nor any person executing the bonds shall be liable personally on the bonds by reason of the lawful issuance thereof.

3. A commission, subject to the provisions of [section 393.760] **sections 393.700 to 393.770,** may from time to time issue its bonds in such principal amounts as it deems necessary to provide sufficient funds to purchase, construct, extend or improve a project, including the establishment or increase of reserves, interest accrued during construction of such project and for a period not exceeding one year after the completion of construction of such project, and the

payment of all other costs or expenses of the commission incident to and necessary or convenient to carry out its corporate purposes and powers.

4. Bonds of a commission shall be authorized by resolution of the board of directors **or by resolution of its executive committee if the board has delegated such authority** and may be issued under such resolution or under a trust indenture or other security instrument, as authorized by the resolution, in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon, registered or both, carry such conversion or registration privileges, have such rank or priority, **be payable from any one or more projects**, be executed in such manner, be payable in such medium of payment, at such place or places within or without the state, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities or interest rates.

5. The bonds shall be sold at public sale or at private sale as the commission may provide and at such price or prices as the commission shall determine. The decision of the commission shall be conclusive.

6. The bonds may be signed by manual or facsimile signatures as determined by resolution of the board **or by resolution of the executive committee if the board has delegated such authority**. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officers had remained in office until such delivery.

7. Pending preparation of definitive bonds, a commission may issue temporary bonds which shall be exchanged for the definitive bonds when such bonds shall have been executed and are available for delivery.

8. All bonds issued under the provisions of sections 393.700 to 393.770 shall be negotiable instruments pursuant to the provisions of the uniform commercial code of the state.

393.730. REQUIREMENTS OF RESOLUTION AUTHORIZING BONDS. — 1. The resolution authorizing any issuance of bonds hereunder shall make provision for the payment of the bonds by fixing such rates, fees and charges for water, sewer, gas, heat, electric power and energy and all other services **provided by the project** sufficient to pay the interest and principal of the bonds when due, to provide for a sinking fund sufficient to retire the bonds, and to provide and maintain reasonable reserves. Such rates, fees and charges shall also be sufficient to pay the costs of operation, improvement and maintenance of the [water, sewer, gas, heat or electric power facilities] **project**.

2. The resolution and trust indenture under which any bonds shall be issued shall constitute a contract with the holders of the bonds, and may contain provisions, among others, as to:

(1) The terms and provisions of the bonds;

(2) As provided in section 393.735, the mortgage or pledge of and the grant of a security interest in any real or personal property and all or any part of the revenues from any project or projects or any revenue-producing contract or contracts made by the commission with any person to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist;

(3) The custody, collection, securing, investment and payment of any revenues, assets, money, funds or property with respect to which the commission may have any rights or interest;

(4) The purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, [and] the pledge of such proceeds to secure the payment of the bonds **and the net revenue of the project or projects which may be pledged to the payment of bonds**;

(5) Limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

- (6) The rank or priority of any bonds with respect to any lien or security;
- (7) The creation of special funds or moneys to be held in trust or otherwise for operating expenses, payment, or redemption of bonds, reserves or other purposes, and the use and disposition of moneys held in such funds;
- (8) The procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;
- (9) The definition of the acts or omissions to act which shall constitute a default in the duties of the commission to holders of its bonds, and the rights and remedies of such holders in the event of such default including, if the commission shall so determine, the right to accelerate the due date of the bonds or the right to appoint a receiver or receivers of the property or revenues subject to the lien of the resolution and trust indenture;
- (10) Any other or additional agreements with or for the benefit of the holders of bonds or any covenants or restrictions necessary or desirable to safeguard the interests of such holders;
- (11) The custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds;
- (12) The vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the commission may determine, or limiting or abrogating the rights of the holders of any bonds to appoint a trustee, or limiting the rights, powers, and duties of such trustee; and
- (13) Appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state.

393.740. CERTAIN TAXES APPLICABLE. — 1. All bonds issued pursuant to sections 393.700 to 393.770 and all income or interest thereon shall be exempt from all state taxes, except estate and transfer taxes.

2. All property, real and tangible personal, except for properties acquired exclusively for water supply districts, acquired by the bonds issued pursuant to sections 393.700 and 393.770 or otherwise acquired by a commission shall be subject to taxation for state, county, and municipal and other local purposes only to the same extent as if such property was owned directly by each **contracting or participating municipality in such proportion or manner as specified by contract among all contracting or participating municipalities party to a project or if not specified** in proportion to the percentage of each municipality's interest or participation in the facility or property.

393.745. REFUNDING BONDS MAY BE ISSUED. — Any commission governed by the provisions of sections 393.700 to 393.770 having issued bonds under sections 393.700 to 393.770 may from time to time as authorized by resolution of the commission **or by resolution of its executive committee if the board has delegated such authority** issue refunding bonds for the purpose of refunding, extending and unifying the whole or any part of its valid outstanding indebtedness.

393.760. ELECTION ON ISSUANCE OF BONDS — REQUIRED ACTIONS — NOTICE — CONDUCT OF ELECTION — FORM OF BALLOT — ALTERNATIVE VOTING PROCEDURES. — 1. [The commission] **Each participating municipality** shall, in accordance with the provisions of chapter 115, RSMo, order an election to be held whereby the qualified electors in [each contracting] **such participating** municipality [participating in the project] shall approve or disapprove the issuance of [the] **its** bonds [as provided for in the resolution of the commission] **to finance its individual interest in the project.** The [commission] **participating municipality** may not order such an election until it has [engaged and] received a report from an independent consulting engineer as defined in section 327.181, RSMo, for the purpose of determining the economic and engineering feasibility of any proposed project the costs of which

are to be financed through the issuance of bonds. The report of the consulting engineer shall be provided to and approved by the legislative body and executive of each [contracting] **such participating** municipality [participating in the project] and such report shall be open to public inspection and shall be the subject of a public hearing in each **participating** municipality [participating in the project]. Notice of the time and place of each such hearing shall be published in a daily newspaper of general circulation within each **such participating** municipality. Interested parties may appear and fully participate in such hearings.

2. [The commission] **Each participating municipality** shall notify the election authority or authorities responsible for conducting elections within [each contracting] **such participating** municipality [participating in the project] in accordance with chapter 115, RSMo.

3. The question shall be submitted in substantially the following form:

OFFICIAL BALLOT

[Should a resolution to approve the issuance of] **Shall (name of participating municipality) issue its (type) revenue bonds** [by the joint municipal (water) (sewer) (power) (gas) commission] in an amount not to exceed \$..... for the purpose of [..... be approved] **paying its share of the cost of participating in (describe project)?**

Yes

No

If you are in favor of the resolution, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

4. If the [resolution to issue] **issuance of the bonds** is approved by at least a majority of the qualified electors voting thereon in [each of the contracting municipalities participating in the project] **the participating municipality**, the [commission] **participating municipality** shall declare the result of the election and cause the bonds to be issued.

5. [The municipalities participating in the project] **Each participating municipality** shall bear all expenses associated with the elections in such [contracting municipalities] **participating municipality**.

393.770. PURCHASE AGREEMENTS AUTHORIZED — TERMS — NOT TO CONSTITUTE DEBT. — 1. The contracting municipalities may provide in the joint contract for payment to the commission of funds for commodities to be procured and services to be rendered by the commission. The contracting municipalities, **participating municipalities**, and other persons may enter into purchase agreements with the commission for the purchase, sale, exchange or transmission of water, sewage service, gas, heat or any right to capacity or interest in such electric power and energy **and any other services provided by the project** whereby the purchaser is obligated to make payments in amounts which shall be sufficient to enable the commission to meet its expenses, interest and principal payments, whether at maturity or upon sinking fund redemption, for its bonds, reasonable reserves for debt service, operation and maintenance and renewals and replacements and the requirements of any rate covenant with respect to debt service coverage contained in any resolution, trust indenture or other security instrument. Purchase agreements may contain such other terms and conditions as the commission and the purchasers may determine, including provisions whereby the purchaser is obligated to pay for water, sewage service, gas, heat [or], power, **or any other services provided by the project** irrespective of whether water, sewage service, gas, heat [or], energy, **or any other service** is produced or delivered to the purchaser or whether any project contemplated by any such agreement is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of such project. Such agreements may be for a term covering the life of a project or for any other term, or for an indefinite period. The joint contract or a purchase agreement may provide that if one or more of the purchasers default in the payment of its obligations under any such purchase agreement, the remaining purchasers which also have such agreements shall be required to accept and pay for and shall be entitled proportionately to use or otherwise dispose of the water, sewage service, gas, heat [or], energy, **or other service** to be purchased by the defaulting purchaser.

2. The obligations of a **contracting or participating** municipality under a purchase agreement with a commission or arising out of the default by any other purchaser with respect to such an agreement shall not be construed to constitute debt of the **contracting or participating** municipality. To the extent provided in the purchase agreement, such obligations shall constitute special obligations of the **contracting or participating** municipality, payable solely from the revenues and other moneys derived by the **contracting or participating** municipality from its municipal utility and shall be treated as expenses of operating a municipal utility.

Approved June 25, 2004

HB 1179 [HCS HB 1179]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises surcharge in criminal cases so that the money collected may also be used to pay for any expenses related to housing costs or fees for prisoners.

AN ACT to repeal section 488.5026, RSMo, and to enact in lieu thereof one new section relating to a surcharge in criminal cases.

SECTION

A. Enacting clause.

488.5026. Two-dollar surcharge for all criminal cases, funds to be deposited in inmate security fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 488.5026, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 488.5026, to read as follows:

488.5026. TWO-DOLLAR SURCHARGE FOR ALL CRIMINAL CASES, FUNDS TO BE DEPOSITED IN INMATE SECURITY FUND. — 1. Upon approval of the governing body of a city, county, or a city not within a county, a surcharge of two dollars shall be assessed as costs in each court proceeding filed in any court in any city, county, or city not within a county adopting such a surcharge, in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of two dollars shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, and shall be payable to the treasurer of the governmental unit authorizing such surcharge.

3. The treasurer shall deposit funds generated by the surcharge into the "Inmate Security Fund". Funds deposited shall be utilized to develop biometric [identification] **verification** systems to ensure that inmates can be properly identified and tracked within the local jail system. **Upon the installation of the biometric verification system, funds in the inmate security**

fund may be used for the maintenance of the biometric verification system, and to pay for any expenses related to custody and housing and other expenses for prisoners.

Approved June 21, 2004

HB 1182 [CCS SS SCS HCS HB 1182]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes various provisions related to incentive tax credits.

AN ACT to repeal sections 100.710, 100.850, 137.100, 144.030, 144.615, 148.330, 348.430, and 348.432, RSMo, and to enact in lieu thereof eight new sections relating to tax credits, with an emergency clause.

SECTION

- A. Enacting clause.
- 100.710. Definitions.
- 100.850. Assessments remittal, job development assessment fee — company records available to board, when — when remitted assessment ceases — tax credit amount, cap, claiming credit — refunds.
- 137.100. Certain property exempt from taxes.
- 144.030. Exemptions from state and local sales and use taxes.
- 144.615. Exemptions.
- 148.330. Returns, assessment of tax, procedure — notice to company — taxes, how paid — suspension of delinquents, apportionment of money — county, defined.
- 348.430. Agricultural product utilization contributor tax credit — definitions — requirements — limitations.
- 348.432. New generation cooperative incentive tax credit — definitions — requirements — limitations.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 100.710, 100.850, 137.100, 144.030, 144.615, 148.330, 348.430, and 348.432, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 100.710, 100.850, 137.100, 144.030, 144.615, 148.330, 348.430, and 348.432, to read as follows:

100.710. DEFINITIONS. — As used in sections 100.700 to 100.850, the following terms mean:

- (1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;
 - (2) "Board", the Missouri development finance board as created by section 100.265;
 - (3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;
 - (4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;
 - (5) "Department", the Missouri department of economic development;
 - (6) "Director", the director of the department of economic development;
 - (7) "Economic development project":
 - (a) The acquisition of any real property by the board, the eligible industry, or its affiliate;
- or
-

(b) The fee ownership of real property by the eligible industry or its affiliate; and

(c) For both paragraphs (a) and (b) of this subdivision, "economic development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

(8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project. For an essential industry, a person employed on a full-time basis in an existing job at the economic development project averaging at least thirty-five hours per week may be considered an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

(9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

(a) Invest a minimum of fifteen million dollars, or ten million dollars for an office industry, in an economic development project; and

(b) Create a minimum of one hundred new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo, **in the case of an approved company for a project for a world headquarters of a business whose primary function is tax return preparation in any home rule city with more than four hundred thousand inhabitants and located in more than one county, create a minimum of one hundred new jobs for eligible employees at the economic development project.** An industry that meets the definition of "essential industry" may be considered an eligible industry for the purposes of the program authorized by sections 100.700 to 100.850;

(10) "Essential industry", a business that otherwise meets the definition of eligible industry except an essential industry shall:

(a) Be a targeted industry;

(b) Be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants;

(c) Have maintained at least two thousand jobs at the proposed economic development project site each year for a period of four years preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made and during the year in which said application is made;

(d) For the duration of the certificates, retain at the proposed economic development project site the level of employment that existed at the site in the taxable year immediately preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made; and

(e) Invest a minimum of five hundred million dollars in the economic development project by the end of the third year after the issuance of the certificates under this program;

(11) "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state. For an essential industry, an existing job may be considered a new job for the purposes of the program authorized by sections 100.700 to 100.850;

(12) "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;

(13) "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:

(a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;

(e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and

(f) All other costs of a nature comparable to those described in this subdivision;

(14) "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates;

(15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

100.850. ASSESSMENTS REMITTAL, JOB DEVELOPMENT ASSESSMENT FEE — COMPANY RECORDS AVAILABLE TO BOARD, WHEN — WHEN REMITTED ASSESSMENT CEASES — TAX CREDIT AMOUNT, CAP, CLAIMING CREDIT — REFUNDS. — 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a

distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million dollars annually. **If the approved company shall be a project for a world headquarters of a business whose primary function is tax return preparation in any home rule city with more than four hundred thousand inhabitants and located in more than one county, the aggregate amount of tax credits authorized by subsection 4 of this section shall be increased to eleven million nine hundred fifty thousand dollars annually.**

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.

137.100. CERTAIN PROPERTY EXEMPT FROM TAXES. — The following subjects are exempt from taxation for state, county or local purposes:

- (1) Lands and other property belonging to this state;
- (2) Lands and other property belonging to any city, county or other political subdivision in this state, including market houses, town halls and other public structures, with their furniture and equipments, and on public squares and lots kept open for health, use or ornament;
- (3) Nonprofit cemeteries;
- (4) The real estate and tangible personal property which is used exclusively for agricultural or horticultural societies organized in this state, including not-for-profit agribusiness associations;
- (5) All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes;
- (6) Household goods, furniture, wearing apparel and articles of personal use and adornment, as defined by the state tax commission, owned and used by a person in his home or dwelling place; [and]
- (7) Motor vehicles leased for a period of at least one year to this state or to any city, county, or political subdivision; **and**
- (8) **Real or personal property leased or otherwise transferred by an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, to another for which or whom such property is not exempt when immediately after the lease or transfer, the interstate compact agency enters into a leaseback or other agreement that directly or indirectly gives such interstate compact agency a right to use, control, and possess the property; provided, however, that in the event of a conveyance of such property, the interstate compact agency must retain an option to purchase the property at a future date or, within the limitations period for**

reverters, the property must revert back to the interstate compact agency. Property will no longer be exempt under this subdivision in the event of a conveyance as of the date, if any, when:

- (a) The right of the interstate compact agency to use, control, and possess the property is terminated;
- (b) The interstate compact agency no longer has an option to purchase or otherwise acquire the property; and
- (c) There is no provisions for reverter of the property within the limitation period for reverters.

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, RSMo, section 238.235, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.584, RSMo; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310, RSMo) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation, slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and

equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility which converts recovered materials into a new product, or a different form which is used in producing a new product, and shall include a facility or equipment which is used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms "motor vehicle" and "highway" shall have the same meaning pursuant to section 301.010, RSMo;

(5) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(6) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(7) Animals or poultry used for breeding or feeding purposes;

(8) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(9) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(10) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(11) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, RSMo, solely in the transportation of persons or property in interstate commerce;

(12) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (4) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing contain at least twenty-five percent recovered materials as defined in section 260.200, RSMo. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(13) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(14) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the air conservation commission which may uphold or reverse such action;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices, and so certified as such by the director of the department of natural resources, except that any action by the director pursuant to this subdivision may be appealed to the Missouri clean water commission which may uphold or reverse such action;

(16) Tangible personal property purchased by a rural water district;

(17) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation;

(18) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities;

(19) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(20) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, solely in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (19) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(21) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530, RSMo;

(22) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, RSMo, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides"

includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(23) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use;

(a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(24) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(25) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536, RSMo, to eliminate all state and local sales taxes on such excise taxes;

(26) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(27) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo, in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(28) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(29) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(30) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(31) Electrical energy or gas, whether natural, artificial or propane, which is ultimately consumed in connection with the manufacturing of cellular glass products;

(32) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(33) Tangible personal property purchased for use or consumption directly or exclusively in the research and development of prescription pharmaceuticals consumed by humans or animals;

(34) All sales of grain bins for storage of grain for resale;

(35) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, RSMo, and licensed pursuant to sections 273.325 to 273.357, RSMo;

(36) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(37) Tangible personal property purchased for use or consumption directly or exclusively in research or experimentation activities performed by life science companies and so certified as such by the director of the department of economic development or the director's designees; except that, the total amount of exemptions certified pursuant to this section shall not exceed one million three hundred thousand dollars in state and local taxes per fiscal year. For purposes of this subdivision, the term "life science companies" means companies whose primary research activities are in agriculture, pharmaceuticals, biomedical or food ingredients, and whose North American Industry Classification System (NAICS) Codes fall under industry 541710 (biotech research or development laboratories), 621511 (medical laboratories) or 541940 (veterinary services). The exemption provided by this subdivision shall expire on June 30, 2003;

(38) All sales or other transfers of tangible personal property to a lessor, who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer, to an interstate compact agency created pursuant to sections 70.370 to 70.430, RSMo, or sections 238.010 to 238.100, RSMo.

144.615. EXEMPTIONS. — There are specifically exempted from the taxes levied in sections 144.600 to 144.745:

(1) Property, the storage, use or consumption of which this state is prohibited from taxing pursuant to the constitution or laws of the United States or of this state;

(2) Property, the gross receipts from the sale of which are required to be included in the measure of the tax imposed pursuant to the Missouri sales tax law;

(3) Tangible personal property, the sale **or other transfer** of which, if made in this state, would be exempt from or not subject to the Missouri sales tax pursuant to the provisions of subsections 2 and 3 of section 144.030;

(4) Motor vehicles, trailers, boats, and outboard motors subject to the tax imposed by section 144.440;

(5) Tangible personal property which has been subjected to a tax by any other state in this respect to its sales or use; provided, if such tax is less than the tax imposed by sections 144.600 to 144.745, such property, if otherwise taxable, shall be subject to a tax equal to the difference between such tax and the tax imposed by sections 144.600 to 144.745;

(6) Tangible personal property held by processors, retailers, importers, manufacturers, wholesalers, or jobbers solely for resale in the regular course of business;

(7) Personal and household effects and farm machinery used while an individual was a bona fide resident of another state and who thereafter became a resident of this state, or tangible personal property brought into the state by a nonresident for his own storage, use or consumption while temporarily within the state.

148.330. RETURNS, ASSESSMENT OF TAX, PROCEDURE — NOTICE TO COMPANY — TAXES, HOW PAID — SUSPENSION OF DELINQUENTS, APPORTIONMENT OF MONEY — COUNTY, DEFINED. — 1. Every such company shall, on or before the first day of March in each year, make a return, verified by the affidavit of its president and secretary, or other authorized officers, to the director of the department of insurance stating the amount of all premiums received on account of policies issued in this state by the company, whether in cash or in notes, during the year ending on the thirty-first day of December, next preceding. Upon receipt of such returns the director of the department of insurance shall verify the same and certify the amount of tax due from the various companies on the basis and at the rates provided in section 148.320, and shall certify the same to the director of revenue together with the amount of the quarterly installments to be made as provided in subsection 2 of this section, on or before the thirtieth day of April of each year.

2. Beginning January 1, 1983, the amount of the tax due for that calendar year and each succeeding calendar year thereafter shall be paid in four approximately equal estimated quarterly installments, and a fifth reconciling installment. The first four installments shall be based upon

the tax for the immediately preceding taxable year ending on the thirty-first day of December, next preceding. The quarterly installments shall be made on the first day of March, the first day of June, the first day of September and the first day of December. Immediately after receiving certification from the director of the department of insurance of the amount of tax due from the various companies the director of revenue shall notify and assess each company the amount of taxes on its premiums for the calendar year ending on the thirty-first day of December, next preceding. The director of revenue shall also notify and assess each company the amount of the estimated quarterly installments to be made for the calendar year. If the amount of the actual tax due for any year exceeds the total of the installments made for such year, the balance of the tax due shall be paid on the first day of June of the year following, together with the regular quarterly payment due at that time. If the total amount of the tax actually due is less than the total amount of the installments actually paid, the amount by which the amount paid exceeds the amount due shall be credited against the tax for the following year and deducted from the quarterly installment otherwise due on the first day of June. If the March first quarterly installment made by a company is less than the amount assessed by the director of revenue, the difference will be due on June first, but no interest will accrue to the state on the difference unless the amount paid by the company is less than eighty percent of one-fourth of the total amount of tax assessed by the director of revenue for the immediately preceding taxable year. The state treasurer, upon receiving the moneys paid as a tax upon such premiums to the director of revenue, shall place the moneys to the credit of a fund to be known as "The County Stock Insurance Fund", which is hereby created and established. **The county stock insurance fund shall be included in the calculation of total state revenue pursuant to article X, section 18, of the Missouri Constitution.**

3. If the estimated quarterly tax installments are not so paid, the director of revenue shall certify such fact to the director of the division of insurance who shall thereafter suspend such delinquent company or companies from the further transaction of business in this state until such taxes shall be paid and such companies shall be subject to the provisions of sections 148.410 to 148.461.

4. On or before the first day of September of each year the commissioner of administration shall apportion all moneys in the county stock insurance fund to the general revenue fund of the state, to the county treasurer and to the treasurer of the school district in which the principal office of the company paying the same is located. All premium tax credits described in sections 135.500 to 135.529, RSMo, and sections 348.430 and 348.432, RSMo, shall only reduce the amounts apportioned to the general revenue fund of the state and shall not reduce any moneys apportioned to any county treasurer or to the treasurer of the school district in which the principal office of the company paying the same is located. Apportionments shall be made in the same ratio which the rates of levy for the same year for state purposes, for county purposes, and for all school district purposes, bear to each other; provided that any proceeds from such tax for prior years remaining on hand in the hands of the county collector or county treasurer undistributed on the effective date of sections 148.310 to 148.460 and any proceeds of such tax for prior years collected thereafter shall be distributed and paid in accordance with the provisions of such sections. Whenever the word "county" occurs herein it shall be construed to include the city of St. Louis.

348.430. AGRICULTURAL PRODUCT UTILIZATION CONTRIBUTOR TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(6) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For **all tax [year] years beginning on or after January 1, 1999**, a contributor who contributes funds to the authority may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to this subsection. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year.** The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for a contribution provided in this section may not be a member, owner, investor or lender of an eligible new generation cooperative or eligible new generation processing entity that receives financial assistance from the authority either at the time the contribution is made or for a period of two years thereafter.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially] **may** be claimed in the taxable year in which the contributor contributes funds to the authority. [Any amount of credit that exceeds the tax due for a contributor's taxable year] **For all fiscal years beginning on or after July 1, 2004, tax credits allowed pursuant to this section may be carried back to any of the contributor's three prior tax years and may be carried forward to any of the contributor's five subsequent taxable years.** Tax credits issued pursuant to this section may be assigned, transferred or sold **and the new owner of the tax credit shall have the same rights in the credit as the contributor.** Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407, to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity

investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

348.432. NEW GENERATION COOPERATIVE INCENTIVE TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(5) "Employee-qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least [one hundred] **sixty** employees;

(6) "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

(7) "Producer member", a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;

(8) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

(9) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and ending December 31, 2002, any producer member who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative **or eligible new generation processing entity** may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to subsection 3 of this section. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year.**

5. A producer member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the producer member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially be claimed in the taxable year in which the producer member contributes capital to an eligible new generation cooperative or eligible new generation processing entity. Any amount of credit that exceeds the tax due for a producer member's taxable year] may be carried back to any of the producer member's three prior taxable years and carried forward to any of the producer member's five subsequent taxable years **regardless of the type of tax liability to which such credits are applied as authorized pursuant to subsection 3 of this section.** Tax credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the producer member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

6. Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

7. Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the economic welfare of the citizens of this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 23, 2004

HB 1187 [HB 1187]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the procedure allowing Clay County to operate concession stands at privately operated marinas.

AN ACT to repeal section 64.342, RSMo, and to enact in lieu thereof one new section relating to park concession stands.

SECTION

- A. Enacting clause.
64.342. Park concession stands or marinas, county-operated, sale of refreshments, contracting procedures, proceeds go to county park fund (Clay County).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 64.342, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 64.342, to read as follows:

64.342. PARK CONCESSION STANDS OR MARINAS, COUNTY-OPERATED, SALE OF REFRESHMENTS, CONTRACTING PROCEDURES, PROCEEDS GO TO COUNTY PARK FUND (CLAY COUNTY). — 1. The county commission of any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand containing part of a city with a population over three hundred fifty thousand is hereby authorized to acquire, by purchase or gift, establish, construct, own, control, lease, equip, improve, maintain, operate and regulate, in whole or in part, concession stands or marinas within any area contiguous to the lake which is used as a public park, playground, camping site or recreation area. No such lease or concession grant shall be for a longer term than twenty-five years, unless the proposed investment by the lessee or concessionaire is greater than ten million dollars, in which case the lease or concession grant may, at the county's option, be for a term not to exceed fifty years.

2. Such concession stands or marinas may offer refreshments for sale to the public using such areas and services therein relating to boating, swimming, picnicking, golfing, shooting, horseback riding, fishing, tennis and other recreational, cultural and educational uses upon such terms and under such regulations as the county may prescribe. If the county elects to bid the services authorized herein, the county shall award any contracts relating thereto to the most favorable bidder based upon the terms and regulations prescribed by the county after due opportunity for competition including advertising the proposal letting or granting in a newspaper in the county with a circulation of at least five hundred copies per issue, if there be such, and if not, in such case notice shall be posted on the bulletin board in the county courthouse. The county shall have the right to reject any and all bids.

3. All moneys derived from the operation of concession stands or marinas shall be paid into the county treasury and be credited to a "Park Fund" to be established by each county authorized under subsection 1 of this section and be used and expended by the county commission for park purposes.

4. [If the county owns, operates, or leases more than two such marinas, the county shall request bids for the operation of at least one marina pursuant to this section. Any lease or grant made pursuant to this section shall be made with a private individual or group of individuals or with any privately owned entity. The county may operate the marina to be leased or granted for a period not to exceed twenty-four months:

- (1) From the date the county obtains ownership of more than two such marinas;
 - (2) If no bids are deemed by the county to be responsive or favorable; or
-

(3) In the event that an operator of the marina does not comply with the lease terms.
5.] Any county meeting the qualifications of this section shall also have any other powers granted in section 64.341, provided, such powers shall not be construed to limit any powers granted in this section.

Approved June 25, 2004

HB 1188 [SCS HB 1188]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises various statutes relating to fees and costs in criminal cases.

AN ACT to repeal sections 221.070, 488.4014, 488.5320, and 595.045, RSMo, and to enact in lieu thereof four new sections relating to the criminal justice system, with penalty provisions.

SECTION

- A. Enacting clause.
- 221.070. Prisoners liable for cost of imprisonment.
- 488.4014. Court costs in certain civil and criminal cases, exceptions — collection and deposit procedure — distribution — county entitled to judgment, when.
- 488.5320. Charges in criminal cases, sheriffs and other officers.
- 595.045. Funding — costs for certain violations, amount, distribution of funds, audit — judgments in certain cases, amount — failure to pay, effect, notice — court cost deducted — insufficient funds to pay claims, procedure — interest earned, disposition.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 221.070, 488.4014, 488.5320, and 595.045, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 221.070, 488.4014, 488.5320, and 595.045, to read as follows:

221.070. PRISONERS LIABLE FOR COST OF IMPRISONMENT. — Every person who shall be committed to the common jail within any county in this state, by lawful authority, for any offense or misdemeanor, [if he shall be convicted thereof] **upon a plea of guilty or a finding of guilt for such offense**, shall bear the expense of carrying him or her to said jail, and also his or her support while in jail, before he or she shall be discharged; and the property of such person shall be subjected to the payment of such expenses, and shall be bound therefor, from the time of his commitment, and may be levied on and sold, from time to time, under the order of the court having criminal jurisdiction in the county, to satisfy such expenses.

488.4014. COURT COSTS IN CERTAIN CIVIL AND CRIMINAL CASES, EXCEPTIONS — COLLECTION AND DEPOSIT PROCEDURE — DISTRIBUTION — COUNTY ENTITLED TO JUDGMENT, WHEN. — 1. A fee of ten dollars shall be assessed in all cases in which the defendant [is convicted] **pleads guilty or is found guilty** of [violating] **a nonfelony violation** of any provision of chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, and any infraction otherwise provided by law, **a fee of twenty-five dollars shall be assessed** in all misdemeanor cases otherwise provided by law **in which the defendant pleads guilty or is found guilty**, and **a fee of seventy-five dollars shall be assessed** in all felony cases **in which the defendant pleads guilty or is found guilty**, in criminal cases including violations of any county ordinance or any violation of a criminal or traffic law of the state, except that no such fees shall be collected in any

proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. All fees collected under the provisions of this section shall be collected and disbursed in the manner provided by sections 488.010 to 488.020 and payable to the county treasurer who shall deposit those funds in the county treasury.

2. Counties shall be entitled to a judgment in the amount of twenty-five percent of all sums collected, pursuant to this section, on recognizances given to the state in criminal cases, which are or may become forfeited, if not more than five hundred dollars, and fifteen percent of all sums over five hundred dollars, to be paid out of the amount collected.

488.5320. CHARGES IN CRIMINAL CASES, SHERIFFS AND OTHER OFFICERS. — 1. Sheriffs, county marshals or other officers shall be allowed a charge for their services rendered in criminal cases and in all proceedings for contempt or attachment, as required by law, the sum of seventy-five dollars for each felony case or contempt or attachment proceeding, ten dollars for each misdemeanor case, and six dollars for each infraction, excluding cases disposed of by a traffic violations bureau established pursuant to law or supreme court rule. Such charges shall be charged and collected in the manner provided by sections 488.010 to 488.020 and shall be payable to the county treasury.

2. The sheriff receiving any charge pursuant to subsection 1 of this section shall reimburse the sheriff of any other county or the city of St. Louis the sum of three dollars for each pleading, writ, summons, order of court or other document served in connection with the case or proceeding by the sheriff of the other county or city, and return made thereof, to the maximum amount of the total charge received pursuant to subsection 1 of this section.

3. The charges provided in subsection 1 of this section shall be taxed as other costs in criminal proceedings immediately [after conviction] **upon a plea of guilty or a finding of guilt** of any defendant in any criminal procedure. The clerk shall tax all the costs in the case against such defendant, which shall be collected and disbursed as provided by sections 488.010 to 488.020; provided, that no such charge shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court; provided further, that all costs, incident to the issuing and serving of writs of scire facias and of writs of fieri facias, and of attachments for witnesses of defendant, shall in no case be paid by the state, but such costs incurred under writs of fieri facias and scire facias shall be paid by the defendant and such defendant's sureties, and costs for attachments for witnesses shall be paid by such witnesses.

4. Mileage shall be reimbursed to sheriffs, county marshals and guards for all services rendered pursuant to this section at the rate prescribed by the Internal Revenue Service for allowable expenses for motor vehicle use expressed as an amount per mile.

595.045. FUNDING — COSTS FOR CERTAIN VIOLATIONS, AMOUNT, DISTRIBUTION OF FUNDS, AUDIT — JUDGMENTS IN CERTAIN CASES, AMOUNT — FAILURE TO PAY, EFFECT, NOTICE — COURT COST DEDUCTED — INSUFFICIENT FUNDS TO PAY CLAIMS, PROCEDURE — INTEREST EARNED, DISPOSITION. — 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected

and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the division of workers' compensation and the department of public safety, respectively.

6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the

director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars [if the conviction is] **upon a plea of guilty or finding of guilt** for a class A or B felony; forty-six dollars [if the conviction is] **upon a plea of guilty or finding of guilt** for a class C or D felony; and ten dollars [if the conviction is] **upon a plea of guilty or finding of guilt** for any misdemeanor under [the following] Missouri [laws]:

- (1) Chapter 195, RSMo, relating to drug regulations;
- (2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;
- (3) Chapter 491, RSMo, relating to witnesses;
- (4) Chapter 565, RSMo, relating to offenses against the person;
- (5) Chapter 566, RSMo, relating to sexual offenses;
- (6) Chapter 567, RSMo, relating to prostitution;
- (7) Chapter 568, RSMo, relating to offenses against the family;
- (8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;
- (9) Chapter 570, RSMo, relating to stealing and related offenses;
- (10) Chapter 571, RSMo, relating to weapons offenses;
- (11) Chapter 572, RSMo, relating to gambling;
- (12) Chapter 573, RSMo, relating to pornography and related offenses;
- (13) Chapter 574, RSMo, relating to offenses against public order;
- (14) Chapter 575, RSMo, relating to offenses against the administration of justice;
- (15) Chapter 577, RSMo, relating to public safety offenses] **law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo, relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo, relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle equipment regulations.** Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

9. The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

10. [The clerks of the court shall report all delinquent payments to the department of revenue by October first of each year for the preceding fiscal year, and such sums may be withheld pursuant to subsection 15 of this section.

11.] The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection [18] **16** of this section and shall maintain separate records of collection for alcohol-related offenses.

[12. Notwithstanding any other provision of law to the contrary, the provisions of subsections 9 and 10 of this section shall expire and be of no force and effect upon the effective date of the supreme court rule adopted pursuant to sections 488.010 to 488.020, RSMo.

13.] **11.** The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

[14.] **12.** All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

[15.] **13.** When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

[16.] **14.** All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

[17.] **15.** Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

[18.] **16.** Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines.

Approved July 2, 2004

HB 1192 [SCS HCS HB 1192]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires the Director of the Missouri Department of Agriculture to promulgate rules relating to meat inspection.

AN ACT to repeal sections 267.470, 267.472, 267.475, 267.480, 267.485, 267.490, 267.495, 267.500, 267.505, 267.510, 267.515, 267.520, 267.525, 267.531, 267.535, 267.540, 267.545, 267.550, 267.551, 267.552, 267.553, 267.554, 267.555, 267.556, and 537.115, RSMo, and to enact in lieu thereof two new sections relating to animal health and inspection.

SECTION

- A. Enacting clause.
- 265.471. Rules, Federal Meat Inspection Act.
- 537.115. Food donation or distribution, limited liability, when.
- 267.470. Definitions.
- 267.472. Commercial feeders — permit, issuance, revocation, regulation of — discontinuance of licensing, when.
- 267.475. Cooperation with federal government — rules and regulations — powers of department.
- 267.480. Department to vaccinate and test animals, when.
- 267.485. Official calfhood vaccination, certificate — identification of vaccinated animals.
- 267.490. Indemnity for loss, when, how calculated — refusal of payment, when.
- 267.495. Agglutination tests, certificate of — branding, when.
- 267.500. Laboratory for agglutination tests, permit required — records and reports — revocation of permit.
- 267.505. Negative test required, when, exception — imported cattle, test requirements — intrastate shipments, requirements for.
- 267.510. Certified brucellosis free herd certificates, issuance, qualifications — extension for year.
- 267.515. Modified certified brucellosis free area — petitions — certification extended when — regulations in area.
- 267.520. Quarantined cattle subject to rules and regulations — permit required for sale or transportation.
- 267.525. Reactor animal kept for breeding, when.
- 267.531. Seizure of cattle — notice — redemption — hearing, judicial review — sale, disposition of proceeds.
- 267.535. Violations may be enjoined.
- 267.540. False certificate, misdemeanor.
- 267.545. Violation, misdemeanor.
- 267.550. Title of law.
- 267.551. Definitions.
- 267.552. Vaccine, who may administer — rules and regulations — health certificates to be issued — exceptions to calfhood vaccinations.
- 267.553. Female cattle and buffalo to be vaccinated, spayed, branded — exceptions — animals moved from this state in interstate commerce, exempt.
- 267.554. Other vaccines may be used, when.
- 267.555. Inheritance of female livestock — special provisions for sale.
- 267.556. Eligibility for indemnity payments.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 267.470, 267.472, 267.475, 267.480, 267.485, 267.490, 267.495, 267.500, 267.505, 267.510, 267.515, 267.520, 267.525, 267.531, 267.535, 267.540, 267.545, 267.550, 267.551, 267.552, 267.553, 267.554, 267.555, 267.556, and 537.115, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 265.471 and 537.115, to read as follows:

265.471. RULES, FEDERAL MEAT INSPECTION ACT. — **The director shall promulgate rules:**

(1) Consistent with and equal to the Federal Meat Inspection Act, the Federal Poultry Products Inspection Act, and all related federal regulations; and

(2) Necessary to implement the inspection programs authorized under sections 265.300 to 265.470.

537.115. FOOD DONATION OR DISTRIBUTION, LIMITED LIABILITY, WHEN. — 1. As used in this section, the following terms mean:

(1) "Canned food", any food commercially processed and prepared for human consumption;

(2) "Perishable food", any food which may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated, or frozen.

2. All other provisions of law notwithstanding, a good faith donor of canned or perishable food, which complies with chapter 196, RSMo, at the time it was donated and which is fit for human consumption at the time it is donated, to a bona fide charitable or not-for-profit organization for free distribution, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct result of the negligence, recklessness or intentional misconduct of such donor.

3. All other provisions of law notwithstanding, a bona fide charitable or not-for-profit organization which in good faith receives and distributes food, which complies with chapter 196, RSMo, at the time it was donated and which is fit for human consumption at the time it is distributed, without charge, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct result of the negligence, recklessness, or intentional misconduct of such organization.

4. Notwithstanding any other provision of law to the contrary, a good faith donor or a charitable or not-for-profit organization, who in good faith receives or distributes frozen and packaged venison without charge, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food, except as provided in this subsection. The venison must:

(1) Come from a whitetail deer harvested in accordance with the rules and regulations of the department of conservation;

(2) Be field dressed and handled in a sanitary manner and the carcass of which remains in sound condition;

(3) Be processed in a licensed facility that is subject to the United States Department of Agriculture's mandated inspections during domesticated animal operations **or is approved by the Missouri department of agriculture meat inspection program.** Except that, the provisions of this subsection shall not apply if the injury or death is a direct result of the negligence, recklessness or intentional misconduct of such donor or the deer was harvested during a season that the deer in Missouri were found to have diseases communicable to humans. Venison handled and processed in accordance with the provisions of this section and protected by all reasonable means from foreign or injurious contamination is exempt from the provisions of chapter 196, RSMo.

5. The provisions of this section shall govern all good faith donations of canned or perishable food which is not readily marketable due to appearance, freshness, grade, surplus or other conditions, but nothing in this section shall restrict the authority of any appropriate agency to regulate or ban the use of such food for human consumption.

[267.470. DEFINITIONS. — Unless otherwise indicated by the context, when used in sections 267.470 to 267.550, the following terms have the following meanings:

(1) "Accredited approved veterinarian" means a veterinarian who has been accredited by the United States Department of Agriculture and approved by the state department of agriculture and who is duly licensed under the laws of Missouri to engage in the practice of veterinary medicine, or a veterinarian domiciled and practicing veterinary medicine in a state other than Missouri, duly licensed under the laws of the state in which he resides, accredited by the United States Department of Agriculture, and approved by the chief livestock sanitary official of that state;

- (2) "Animal" means an animal of the bovine species;
 - (3) "Approved vaccine" or "vaccine" means vaccine containing brucella microorganisms produced under license of the United States Department of Agriculture and approved by the department for the immunization of animals against brucellosis;
 - (4) "Bovine brucellosis" or "brucellosis" means the disease wherein an animal of the bovine species is infected with brucella microorganisms, irrespective of the occurrence or absence of clinical symptoms of the disease;
 - (5) "Cattle" means animals of the bovine species;
 - (6) "Certified brucellosis free herd" means a herd of cattle which has met the requirements and conditions set forth in sections 267.470 to 267.550 for such status, or a herd of cattle in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which said cattle are domiciled and as recommended by the United States Department of Agriculture for such status;
 - (7) "Commercial feeder" means any person, association, partnership or corporation maintaining premises wherein cattle of various classes are held for various feeding periods and after such period are moved to a recognized and approved slaughtering establishment or consigned to a public stockyards market under federal inspection service or a licensed market approved for the handling of such cattle and are sold for slaughter purposes only;
 - (8) "Department" or "department of agriculture" means the department of agriculture of the state of Missouri, and when by this law the said department of agriculture is charged to perform a duty it shall be understood to authorize the performance of such duty by the director of the department of agriculture of the state of Missouri or his duly authorized deputies, acting under the supervision of the director of the department of agriculture;
 - (9) "Infected animal" or "reactor" means an animal which has shown a positive reaction to the agglutination test or any other recognized test for the detection of bovine brucellosis approved by the department or if "brucella organisms" are found in the body discharges or secretions of such animal or when a previous abortion history of the animal justifies designating such animal as a reactor, with or without a positive reaction to the test;
 - (10) "Isolated" or "isolation" means the condition in which cattle are quarantined to a certain designated premise and maintained separately and apart from any other cattle on the premise or from cattle on adjacent premises;
 - (11) "Livestock sale or market" means a sale or market as defined in and licensed under chapter 277, RSMo;
 - (12) "Milk ring test" means a test made by using the standardized suspension of milk ring test antigen of killed brucella microorganisms in combination with proper amounts of whole milk or cream produced by a particular herd of cattle;
 - (13) "Modified certified brucellosis free area" means an area which has met the requirements and conditions set forth in sections 267.470 to 267.550 for such status, or an area in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which such area is located and as recommended by the United States Department of Agriculture for such status;
 - (14) "Plan A" means test-and-slaughter, with or without calfhood vaccination, under provisions of the law;
 - (15) "Plan B" means testing and calfhood vaccination, with temporary retention of reactors for not longer than three years and until they can be disposed of for slaughter, under provisions of the law;
 - (16) "Plan C" means calfhood vaccination without test of any part of the herd and the plan is confined to those herds in which movement of animals is restricted to special permits issued by the department;
 - (17) "Plan D" means adult vaccination to be practiced in cases of emergency, with the approval of the department;
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(18) "Public stockyards" means any public stockyards located within the state of Missouri and subject to regulations under the provisions of the Packers and Stockyards Act enacted by Congress of the United States;

(19) "Quarantine" means the condition in which cattle or other species of animals are restricted in movement and to a particular premise under such terms and conditions as may be designated in the order by the department;

(20) "Test for brucellosis" means a test recognized by the United States Department of Agriculture in the diagnosis of brucellosis.]

[267.472. COMMERCIAL FEEDERS — PERMIT, ISSUANCE, REVOCATION, REGULATION OF — DISCONTINUANCE OF LICENSING, WHEN. — 1. Premises maintained and operated by a commercial feeder for feeding purposes shall, when so used, be under a continuous state of quarantine and breeding animals shall not be maintained on such premises.

2. Surface drainage and any contact with cattle on adjacent premises shall be controlled in a manner designated by the state veterinarian or his representative when deemed necessary for the protection of breeding animals on the adjacent premises.

3. Commercial feeders shall make application for a permit from the department and if issued by the department may then purchase untested nonbred female cattle under the permit from any licensed market, terminal stockyards market or producer within the state for feeding purposes.

4. The department may suspend or revoke the permit for any violation of this chapter or of the rules and regulations of the department.

5. Commercial feeders shall retain all incoming permits, waybills, bills of lading, conductors' manifests, health certificates, and copies of all outgoing permits, certificates, waybills and bills of lading. Permission to enter the premises of a commercial feeder shall be granted to a duly authorized agent of the department or of the United States Department of Agriculture. The books and records of all commercial feeders shall be exhibited to such authorized persons upon demand; provided further, that all incoming and outgoing permits and bills of lading shall be surrendered to each authorized person upon demand. Complete books relating to a commercial feeding operation shall be kept in a current manner.

6. The state veterinarian may elect to discontinue the practice of licensing quarantined commercial feedlots if their existence conflicts with other disease eradication requirements.]

[267.475. COOPERATION WITH FEDERAL GOVERNMENT — RULES AND REGULATIONS — POWERS OF DEPARTMENT. — 1. The department is authorized and directed to cooperate with the United States Department of Agriculture and other agencies and departments of the state of Missouri in the suppression, eradication and control of bovine brucellosis in this state.

2. The department is authorized and empowered to make and adopt rules and regulations for the administration and enforcement of sections 267.470 to 267.550, and may waive the signing of individual agreements by cattle owners on areawide or countywide control and eradication programs.

3. The department in performing the duties and exercising the powers vested in it under sections 267.470 to 267.550 is empowered to enter, during usual working hours, any premises, barns, stables, sheds, vehicles, or other places where cattle are kept, or plants where milk or cream is received or collected, for the purpose of administering and enforcing the provisions of sections 267.470 to 267.550.]

[267.480. DEPARTMENT TO VACCINATE AND TEST ANIMALS, WHEN. — The department is hereby authorized, upon request to supply brucella vaccine, and to employ the services of veterinarians, in cooperation with the United States Department of Agriculture, to administer such vaccine to, and conduct blood tests on, animals, owned by any person or persons in the state of Missouri, who having first signified, in writing, their intention to cooperate with the

department and the United States Department of Agriculture, by signing an agreement to qualify his herd as a brucellosis certified free herd or to participate in the program for the control and eradication of brucellosis, under plan A, B, C, or D, as approved by the state and federal departments of agriculture. Such vaccine and veterinary service and testing shall be furnished without expense to the owner, as long as funds are available for that purpose.]

[267.485. OFFICIAL CALFHOOD VACCINATION, CERTIFICATE — IDENTIFICATION OF VACCINATED ANIMALS. — Official calfhood vaccination for brucellosis shall mean that such animals are vaccinated with an approved vaccine when such animal is of an age as may be fixed by rules and regulations of the department. Such vaccination shall be administered by an accredited veterinarian in good standing, approved by the department, who shall execute and give the owner a certificate in a form approved by the department, certifying an identification of the animal or animals, their age, the serial number of the vaccine, the expiration of the effective date of the vaccine, the dosage used, and if the animal or animals were tested for brucellosis prior to the vaccination, the result of such test. Grade animals vaccinated in compliance with this section shall be permanently identified by a tattoo symbol and a vaccination tag, both as approved by the department, and such tags may be provided at cost by the department. Registered animals shall be identified by the registration tattoo, or the registration name and number of such animal.]

[267.490. INDEMNITY FOR LOSS, WHEN, HOW CALCULATED — REFUSAL OF PAYMENT, WHEN. — 1. The department is hereby authorized to pay, within the limit of its appropriations, an indemnity in the manner and in the amounts herein set forth to the owner of any cattle carrying on an approved brucellosis control program in his herd, in order to reimburse such owner for a part of the loss suffered by such owner in disposing of the cattle exposed to, infected with, or reacting to a test for brucellosis.

2. The value of any cattle on which an indemnity is sought by the owner thereof shall not exceed an amount recognized by the state veterinarian and the owner as just compensation in relation to current market conditions, breeding value and other criteria of valuation for the animal destroyed. Each animal destroyed shall be identified separately on the appraisement form. The appraisement form shall be made out in triplicate, and one copy sent to the department, one copy retained by the duly authorized agent, and one copy retained by the owner.

3. Any such cattle on which an indemnity is sought shall be kept in isolation and within fifteen days of identification or branding shall be sold for slaughter and a report of the net proceeds (being the total amount received less expense of transportation, commissions and other expense of such sale) derived from the sale of such infected or reactor cattle shall be delivered by the owner to the department. The department shall determine the owner's loss by deducting the amount of the net proceeds so derived by the sale of the cattle for slaughter from the appraised value.

4. The indemnity to be paid by the department shall be an amount set at the discretion of the state veterinarian and shall not exceed breeding value of the animal. The department shall certify to the state commissioner of administration the amount to be paid by the department, and such amount shall constitute a legal claim against the state within the limits of available appropriations, and the commissioner of administration shall approve the same and cause the same to be paid by issuing his warrant on the state treasurer therefor in payment to such owner.

5. Indemnity for animals slaughtered as reactors or as infected cattle shall be paid to the owner thereof, only if the owner cooperates with the department, if requested by the state veterinarian or his agent, in carrying out recommended practices in eradicating the disease from his animals.

6. No indemnity shall be paid if, in the judgment of the state veterinarian, the animal does not qualify for indemnity or the owner is ineligible for payments.]

[267.495. AGGLUTINATION TESTS, CERTIFICATE OF — BRANDING, WHEN. — Every person conducting agglutination tests shall execute, in triplicate, a certificate on each test made, in the form to be prescribed by the department and one copy of said certificate of test shall be mailed or delivered to the department, and one copy shall be delivered to the owner of the animal tested, and one copy shall be retained by the person conducting the test and executing the certificate. If the animal tested shows a positive reaction to the agglutination test, the person conducting the test shall brand and tag such animal as required by rules and regulations of the department.]

[267.500. LABORATORY FOR AGGLUTINATION TESTS, PERMIT REQUIRED — RECORDS AND REPORTS — REVOCATION OF PERMIT. — 1. No person shall operate or conduct a laboratory in this state for the purpose of making agglutination tests, nor shall any person make such tests, without first securing from the department a permit to do so. The application for such permit shall be on a form prescribed by the department and shall set forth the name of the applicant and, if a corporation, the names of its principal officers, the location where such laboratory will be conducted, such tests made and the records thereof kept, a brief description of the training and experience of the applicant or the person in charge of making such tests, and such other information as the department may require to enable the department to determine the responsibility, qualifications and ability of the applicant to make agglutination tests.

2. If the department finds that the applicant is responsible and appears to be qualified to make such tests, it shall issue a permit to the applicant. Such permit shall be issued for the period ending on the following June thirtieth, and shall be renewable from year to year on like application.

3. Each person holding a permit to conduct such a laboratory and make such tests shall keep a record of all tests so made, including the name and address of the person for whom the tests were made, and shall report to the department the results of all tests made for persons or upon cattle located in this state. Such reports shall be made upon forms to be provided by the department and at such times as are required by sections 267.470 to 267.550 or by rules and regulations of the department.

4. If the department finds that any applicant for permit is not responsible or is not qualified to make tests, it may refuse to issue a permit or to renew a permit. If the department finds that any person holding a permit is not correctly reporting the results of the tests made by such persons or if such persons shall fail to report the results of the tests made to the department, as herein required, the department may revoke such permit or may refuse to renew any such permit.]

[267.505. NEGATIVE TEST REQUIRED, WHEN, EXCEPTION — IMPORTED CATTLE, TEST REQUIREMENTS — INTRASTATE SHIPMENTS, REQUIREMENTS FOR. — 1. All cattle eight months of age or over entering Missouri from any point outside the state and all cattle eight months of age or over exchanged, bartered or offered for sale or transported within the state of Missouri must have passed a negative test for brucellosis, conducted in an approved laboratory within thirty days prior to entry or within thirty days prior to sale, exchange, barter or being transported within the state. The state veterinarian may eliminate the test requirements on certain groups or classes of animals by specific regulations.

2. All cattle entering Missouri from any point outside the state shall be accompanied by an official health certificate stating that all animals listed thereon have passed a negative blood test for brucellosis within the previous thirty days or showing that they are eligible for entry into Missouri in accordance with the regulations of the department. All other shipments within the state must be accompanied by official certification of tests, vaccinations, health certificate, permits or waybills, which properly identify all the animals in the shipment or as otherwise specified in the regulations of the department.]

[267.510. CERTIFIED BRUCELLOSIS FREE HERD CERTIFICATES, ISSUANCE, QUALIFICATIONS — EXTENSION FOR YEAR.] — A "certified brucellosis free herd" is one which has qualified for such status as herein provided. Any herd owner desiring such status must file a signed application and agreement form with the department. The department shall authorize the necessary tests in order to qualify or requalify for such status.

(1) A herd may be certified as brucellosis free when it has met all the requirements for qualifications as set out in current uniform methods and rules of the Animal and Plant Health Inspection Service of the U.S.D.A. and as required by the United States Department of Agriculture and the state department of agriculture.

(2) The certification of a herd may be extended for another year when the herd retest requirements as outlined by current department regulations have been met.

(3) "Certified brucellosis free herd" certificates which shall be valid for one year, unless revoked, will be issued by cooperating state and federal officials, to owners whose herd meets the provisions of sections 267.470 to 267.550.]

[267.515. MODIFIED CERTIFIED BRUCELLOSIS FREE AREA — PETITIONS — CERTIFICATION EXTENDED WHEN — REGULATIONS IN AREA.] — A "modified certified brucellosis free area" may be established as provided in this section.

(1) If sixty-five percent or more of the cattle owners within an area owning sixty-five percent of the cattle in such area sign a petition requesting eradication of brucellosis on an areawide basis, and the petition is filed with the department, then all cattle owners within such area shall be required to inaugurate and carry out brucellosis control plan A.

(2) All persons responsible for obtaining signatures of cattle owners on the petitions shall submit therewith an affidavit certifying that the petitions are true and accurate as witnessed, and the petitions shall be filed with the department along with an affidavit of the county clerk of the county that the petitions contain the names of not less than sixty-five percent of the cattle owners owning sixty-five percent of the cattle within the area as disclosed by the last assessment rolls of the one or more townships therein.

(3) When the last complete test of all herds within an area indicates that the number of reactors, exclusive of officially calfhood vaccinated animals under thirty months of age and steers and spayed heifers of any age, does not exceed one percent and the herd infection does not exceed five percent, the area may be declared a "modified certified brucellosis free area" for a period of three years. Infected herds shall be quarantined until they have tested sufficiently as outlined in current brucellosis eradication regulations.

(4) The certification of an area may be extended when requirements, as jointly agreed upon by the United States Department of Agriculture and the state department of agriculture, are being carried out.

(5) The department may require the testing of all eligible cattle leaving a public stockyards market, licensed market and dealers premises for the purpose of screening beef type herds and for determining the level or rate of infection for the respective area of origin. If the total of the cattle screened or tested for the area is insufficient, then sufficient additional measures may be required by the department, including testing of herds at the farm level. The consignor of cattle shall, immediately upon delivery to a market, furnish the correct name and address of the owner of the herd or herds of origin, the county or other point of origin for all cattle in the consignment, and all dealers shall maintain records which provide such information in order to facilitate the proper screening of the herds of origin, and for the recertification of an area. Market operators and dealers shall make such information available to a representative of the department upon demand and to the veterinarian charged with testing of such cattle.

(6) The department is hereby granted the authority to enter all milk or dairy plants and cream buying stations for the purpose of collecting milk or cream for the conduct of the milk ring test. Operators of all such milk plants and cream buying stations shall maintain accurate records of all herd owners selling milk or cream to their plant and shall maintain an individual milk

sample for the department on all milk collected in bulk, and shall make such information available to a representative of the department upon demand.

(7) Cattle which have passed a negative test for brucellosis shall be maintained separate and apart from any other untested cattle when such cattle are to be offered for sale, barter, exchange or movement within thirty days from date of the test.

(8) "Area" as used in this section shall include one or more townships in any county.

(9) When the livestock owners in ninety or more counties have petitioned the department for the eradication of brucellosis on an areawide basis under the provisions of plan A, all cattle owners in the remaining counties in the state shall be required to inaugurate and carry out brucellosis eradication plan A upon notice from the department.]

[267.520. QUARANTINED CATTLE SUBJECT TO RULES AND REGULATIONS — PERMIT REQUIRED FOR SALE OR TRANSPORTATION. — The owner of cattle which are under quarantine shall comply with all rules and regulations adopted by the department relating to the quarantine of cattle and with all orders issued by the department pertaining to the sale, movement, transfer or transportation of such cattle. Cattle under quarantine may be sold, transferred or transported only upon a permit issued by the department; provided that infected or reactor cattle under quarantine shall not be sold, moved, or transported for any purpose except on a permit issued by the department.]

[267.525. REACTOR ANIMAL KEPT FOR BREEDING, WHEN. — Notwithstanding any provision in any of sections 267.470 to 267.550, the department shall allow and permit the owner of any animal which is found to be a reactor, to retain such animal in quarantine and use the animal for breeding purposes in his own herd, where necessary or desirable in order to preserve valuable breeding cattle; but the permission shall not be granted if the state veterinarian determines that the eradication program would be adversely affected and permission shall not be granted unless the United States Department of Agriculture agrees that county brucellosis status will not be affected. Such reactor animal may not be sold, transferred, or moved except on a special permit issued by the department.]

[267.531. SEIZURE OF CATTLE — NOTICE — REDEMPTION — HEARING, JUDICIAL REVIEW — SALE, DISPOSITION OF PROCEEDS. — 1. Cattle which are held, moved or transported in violation of the provisions of sections 267.470 to 267.550, or the rules and regulations adopted hereunder, on order of the department of agriculture shall be seized and taken into custody by an authorized agent of the department of agriculture or by any state or county law enforcement officer at the request of the department. The order, together with a notice stating the reasons for the seizure and the rights of the owner under this section, shall be served upon the custodian at the time of seizure and copies thereof shall be mailed to the owner, if a person other than the custodian, by certified mail to his address as given by the custodian within twenty-four hours after the seizure. The department shall impound and hold all cattle seized and taken into custody at the owner's expense and without liability to the department. Any cattle so seized and impounded may be redeemed by the owner and released to him by the department, provided that all such animals shall have been tested for brucellosis and any reactors shall be tagged and branded or tagged as provided by law at the owner's expense. In order to redeem such cattle the owner shall pay all expenses including the care and feeding of such cattle and the expense of testing and branding. Any reactor cattle shall be consigned by the owner to slaughter upon redemption thereof.

2. Any person aggrieved by an order of seizure and impoundment may appeal therefrom by filing with the director of the department of agriculture a petition stating in detail his objections to the order, within five days after service or mailing of the order and notice. The director, or his authorized agent, within forty-eight hours of the filing of the appeal, shall hold a hearing to determine the validity of the order and shall either affirm the order or release the

cattle. The hearing shall be conducted and judicial review of the director's decision may be had in the manner provided by chapter 536, RSMo. If an order of seizure and impoundment is determined to be invalid, the expense of caring for the cattle and the cost of the proceedings shall be borne by the department of agriculture.

3. If the cattle are not redeemed by the owner, and if no appeal is taken within five days after service or mailing of the notice and order of seizure, the department may apply to the circuit court of any county in which the cattle are impounded and the department under court order shall sell the cattle for slaughter and deduct from the net proceeds thereof all expenses of the department in connection with the seizure and impoundment of the cattle and remit the balance to the owner.]

[267.535. VIOLATIONS MAY BE ENJOINED. — In addition to the remedies provided for in sections 267.470 to 267.550 or by law, the prosecuting attorney of any county in which a violation of any provision of sections 267.470 to 267.550 occurs or the attorney general of the state is hereby authorized to apply to any court of competent jurisdiction for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction to restrain any person from violating any provision of sections 267.470 to 267.550.]

[267.540. FALSE CERTIFICATE, MISDEMEANOR. — Any person who shall knowingly or willfully make any false certificate or falsify any statement in any certificate provided for in sections 267.470 to 267.550 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided by law.]

[267.545. VIOLATION, MISDEMEANOR. — Any person violating any provision of sections 267.470 to 267.550 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided by law.]

[267.550. TITLE OF LAW. — Sections 267.470 to 267.550 shall be cited as "The Missouri Brucellosis Control and Eradication Law".]

[267.551. DEFINITIONS. — As used in sections 267.551 to 267.556, the following terms shall mean:

(1) "Accredited and approved veterinarian", a veterinarian who has been accredited by the United States Department of Agriculture and approved by the department of agriculture of this state and who is duly licensed under the laws of this state to engage in the practice of veterinary medicine;

(2) "Bovine", male and female cattle or buffalo;

(3) "Director", the director of the department of agriculture of this state;

(4) "Official calfhood vaccinate", female cattle of any breed or female bison vaccinated while legal age by a veterinary services veterinarian, state veterinarian, or an accredited veterinarian with brucella abortus strain 19 vaccine;

(5) "Quarantined feedlot", a confined area under official state quarantine and approved jointly by the director of the department of agriculture and officials of the United States Federal Animal Health Office where all animals are to be classified as exposed to brucellosis;

(6) "'S' branded cattle", cattle which have been identified by branding with a hot iron bearing the letter "S" to be placed on the left jaw with a letter at least two inches high by two inches wide;

(7) "Spay", sterilization of a female animal by removal of the ovaries.]

[267.552. VACCINE, WHO MAY ADMINISTER — RULES AND REGULATIONS — HEALTH CERTIFICATES TO BE ISSUED — EXCEPTIONS TO CALFHOOD VACCINATIONS. — 1. Brucella abortus vaccine shall be administered to all required animals in accordance with a method to be

approved by the Missouri department of agriculture in rules and regulations to be issued by the director as otherwise provided by law.

2. The director shall issue rules and regulations regarding the required use and sale of brucella abortus vaccine. The vaccine shall only be sold to accredited and approved veterinarians who have completed a training program sponsored by the director on the use of the vaccine.

3. The director shall issue a health certificate of compliance for those animals treated pursuant to the provisions of sections 267.551 to 267.556.

4. The director, at his discretion, may rescind the provisions of sections 267.551 to 267.556 as they pertain to calfhood vaccination if the state of Missouri has maintained a class "A" status for a period of two years, as such term is defined by rules and regulations provided by the United States Department of Agriculture. However, in the event this state cannot maintain a class "A" status, and goes back to a class "B" status, then the provisions of sections 267.551 to 267.556 shall be in full force.]

[267.553. FEMALE CATTLE AND BUFFALO TO BE VACCINATED, SPAYED, BRANDED — EXCEPTIONS — ANIMALS MOVED FROM THIS STATE IN INTERSTATE COMMERCE, EXEMPT. — All female bovine born after January 1, 1984, and having reached the age of four months, except those animals from a certified brucellosis free herd as defined under section 267.510, shall be vaccinated as required by the director, spayed, or "S" branded prior to transfer of ownership. Such animals may move directly from a farm of origin to an approved market where the provisions of sections 267.551 to 267.556 will be complied with prior to the release of such animals from the market. Any nonvaccinated female bovine born before January 1, 1984, may, after normal testing procedures, be sold within the state. Finished fed heifers which have not been vaccinated in accordance with the provisions of sections 267.551 to 267.556, but that are moving through cattle market channels directly to slaughter, shall be exempt from the "S" branding or spaying requirement. "S" branded cattle shall only be moved to a quarantined feedlot or through cattle market channels directly to slaughter. Animals being moved from this state in interstate commerce shall be exempt from the provisions of sections 267.551 to 267.556, but shall satisfy all requirements of the state of destination. Any calves or cows brought into this state shall meet the same calfhood vaccination requirement that applies to calves and cows raised in this state. Health certificates shall be issued by the director only for calves and cows that satisfy the requirements of calfhood vaccination and to nonvaccinated calves and cows meeting the requirements of a certified brucellosis free herd as provided under section 267.510.]

[267.554. OTHER VACCINES MAY BE USED, WHEN. — Notwithstanding the other provisions of sections 267.551 to 267.556, the director shall be empowered to require the use of another type of vaccine developed after January 1, 1984, found to be more effective than the vaccine, brucella abortus.]

[267.555. INHERITANCE OF FEMALE LIVESTOCK — SPECIAL PROVISIONS FOR SALE. — 1. Notwithstanding any other provision of sections 267.551 to 267.556, any legally qualified heir or heirs who receive an interest in any female bovine from a decedent's estate or who receives a controlling interest in such livestock as the result of a death, and if said heir or heirs, or said heir or heirs' legal representative make provisions to sell such livestock herd in its entirety, such livestock shall be exempt from the provisions of section 267.553 if said livestock shall pass two successive tests as defined under chapter 267, given at least sixty days apart for the detection of the disease, brucellosis.

2. The director shall issue a health certificate of compliance for such livestock herds that favorably pass such testing.

3. If such animals shall fail testing procedures prescribed by the director, such livestock shall be treated equally with other animals that fail such testing procedures.]

[267.556. ELIGIBILITY FOR INDEMNITY PAYMENTS. — To be eligible for an indemnity payment under section 267.490, the owner of cattle for which the indemnity is sought must comply with the provisions of sections 267.551 to 267.556.]

Approved June 23, 2004

HB 1193 [SCS HS HB 1193]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises procedures for notaries public.

AN ACT to repeal sections 486.225, 486.235, 486.240, 486.260, 486.265, 486.280, 486.285, 486.295, 486.300, 486.310, 486.315, 486.330, 486.335, 486.340, 486.345, 486.350, 486.385, and 486.395, RSMo, and to enact in lieu thereof nineteen new sections relating to notaries public, with penalty provisions.

SECTION

- A. Enacting clause.
- 486.225. Application, form of, fee — renewal.
- 486.235. Bond required — oath, form of.
- 486.240. Failure of applicant to appear and qualify, effect of.
- 486.260. Notary to keep journal — exceptions.
- 486.265. Certified copy of notary record, when given, fee — journal to be kept.
- 486.280. Printed information required on notary certificate.
- 486.285. Seal, contents, form — application — property of notary.
- 486.295. Change of address, notice of, effect of.
- 486.300. Change of name by notary, notice to secretary of state, procedure, fee — signature, how signed.
- 486.310. Resignation, how effective.
- 486.315. Removal from county of residence, effect of — amended commission, when, procedure, fee.
- 486.330. Form of acknowledgments.
- 486.335. Affirmations, form of.
- 486.340. Executing witness defined — form of affidavit of executing witness.
- 486.345. Facsimile may be certified — form of certification.
- 486.350. Maximum fees — overcharges or charge for absentee ballots, effect of — travel fee charged, when.
- 486.385. Grounds for revocation of commission.
- 486.395. Certification of notary's authority by the secretary of state, fee, form.
- 486.396. Notary seal stolen, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 486.225, 486.235, 486.240, 486.260, 486.265, 486.280, 486.285, 486.295, 486.300, 486.310, 486.315, 486.330, 486.335, 486.340, 486.345, 486.350, 486.385, and 486.395, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 486.225, 486.235, 486.240, 486.260, 486.265, 486.280, 486.285, 486.295, 486.300, 486.310, 486.315, 486.330, 486.335, 486.340, 486.345, 486.350, 486.385, 486.395, and 486.396, to read as follows:

486.225. APPLICATION, FORM OF, FEE — RENEWAL. — 1. Upon a form prepared by the secretary of state, each applicant for appointment and commission as a notary public shall swear, under penalty of perjury, that the answers to all questions on the application are true and

complete to the best of the applicant's knowledge and that the applicant is qualified to be appointed and commissioned as a notary public. [The Social Security number of the applicant shall be recorded on the application.] The completed application form shall be filed with the secretary of state.

2. [With the person's application, each applicant for appointment and commission as a notary public shall submit to the secretary of state endorsements from two registered voters of this state in substantially the following form:

I, (name of endorser), a registered voter of this state and County, believe to the best of my knowledge, the applicant is a person of good moral character and integrity and capable of performing notarial acts.

.....
(Endorser's signature and residence address)

3.] With the person's application, each applicant for appointment and commission as a notary public shall submit to the secretary of state[, payable to the director of revenue.] a commission fee of fifteen dollars.

[4.] **3.** Each applicant for appointment and commission as a notary public shall state in the application whether or not the applicant has ever been convicted of or pled guilty or nolo contendere to any felony [involving fraud, misrepresentation or theft], **or to any misdemeanor incompatible with the duties of a notary public** and if so, shall attach a list of such convictions or pleas of guilt or nolo contendere.

4. Each applicant for a renewal appointment and commission as a notary public may apply for such renewal appointment in a manner prescribed by the secretary of state.

5. The secretary of state may prohibit, for a period not less than thirty days and not more than one year, a new applicant or renewal from reapplying for an appointment and commission as a notary public following the rejection of such applicant's application by the secretary of state.

6. Prior to submitting an application to the secretary of state, each new applicant or renewal for appointment and commission as a notary public shall read the Missouri Notary Public Handbook and complete a computer-based notary training or other notary training in a manner prescribed by the secretary of state. Each new applicant or renewal applicant shall attest to reading such handbook and receiving such training pursuant to this subsection at the time of submitting the application for appointment and commission as a notary public.

486.235. BOND REQUIRED — OATH, FORM OF. — 1. During his **or her** term of office each notary public shall maintain a surety bond in the sum of ten thousand dollars with, as surety thereon, a company qualified to write surety bonds in this state. The bond shall be conditioned upon the faithful performance of all notarial acts in accordance with this chapter. Each notary public shall notify the secretary of state of changes on or riders to the bond.

2. Before receiving his **or her** commission, each applicant shall submit to the county clerk of the county within and for which he **or she** is to be commissioned, an executed bond commencing at least [thirty] **ninety** days after the date he **or she** submitted [his] **the** application to the secretary of state with a term of four years, **which shall consist of the dates specified on the applicant's commission.**

3. Before receiving his **or her** commission, each applicant shall take the following oath in the presence of the county clerk: I, (name of applicant), solemnly swear, under the penalty of perjury, that I have carefully read the notary law of this state, and if appointed and commissioned as a notary public, I will uphold the Constitution of the United States and of this state and will faithfully perform to the best of my ability all notarial acts in conformance with the law.(signature of applicant) Subscribed and sworn to before me this day of, [19] **20**...(signature of county clerk)

4. Before receiving his **or her** commission, each applicant shall submit to the county clerk a handwritten specimen of [his] **the applicant's** official signature which contains his **or her** surname and at least the initial of [his] **the applicant's** first name.

5. Immediately after receiving the bond and official signature and witnessing the oath, the county clerk shall award to the applicant his **or her** commission as a notary public.

486.240. FAILURE OF APPLICANT TO APPEAR AND QUALIFY, EFFECT OF. — If the person for whom a commission is issued fails to appear and qualify within ninety days after the commission is issued, the county clerk shall note the failure on the commission and return it **within thirty days of such failure** to the secretary of state. The secretary of state shall immediately cancel and annul the commission. **The secretary of state may prohibit, for a period not less than thirty days and not more than one year, such person from reapplying for an appointment and commission as a notary public following the failure to appear and qualify within ninety days after the commission is issued.**

486.260. NOTARY TO KEEP JOURNAL — EXCEPTIONS. — Each notary public shall provide and keep a permanently bound journal of his **or her** notarial acts containing numbered pages, **except those notarial acts connected with judicial proceedings, and those for whose public record the law provides and the public record is publicly filed within ninety days of execution.** Each notary public shall record in such journal the following: **the month, day, and year of notarization; the type of notarization such as acknowledgment or jurat; the type of document; the name and address of the signer; the identification used by the signer; the notary fee; and the signature of the signer.**

486.265. CERTIFIED COPY OF NOTARY RECORD, WHEN GIVEN, FEE — JOURNAL TO BE KEPT. — Every notary shall keep a true and perfect record of his **or her** official acts **in a permanently bound journal**, except those connected with judicial proceedings, and those for whose public record the law provides[,] **and the public record as defined in section 610.010, RSMo, is publicly filed within ninety days of execution.** [and if required, shall give a certified copy of any record in his office, upon the payment of the fees therefor.] Every notary shall make and keep an exact minute, in a [book] **permanently bound journal** kept by him **or her** for that purpose, of each of his **or her** official acts, except as herein provided. **The journal is the exclusive property of the notary.**

486.280. PRINTED INFORMATION REQUIRED ON NOTARY CERTIFICATE. — On every notary certificate, a notary public shall indicate clearly and legibly, **in print not smaller than eight-point type** and by means of rubber stamp, typewriting or printing, so that it is capable of photographic reproduction:

- (1) His **or her** name exactly as it appears on [his] **the** commission;
- (2) The words "Notary Public", "State of Missouri", and "My commission expires (commission expiration date)";
- (3) The name of the county within which he **or she** is commissioned; **and**
- (4) **A commission number, provided that the notary public has been issued a commission number by the secretary of state. Effective August 28, 2004, the secretary of state shall issue a commission number for all new and renewal notary appointments.**

486.285. SEAL, CONTENTS, FORM — APPLICATION — PROPERTY OF NOTARY. — 1. Each notary public shall provide, keep, and use a seal which is either an engraved embosser seal or a black inked rubber stamp seal to be used on the document being notarized. The seal shall contain the notary's name exactly as indicated on the commission and the words "Notary Seal", "Notary Public", and "State of Missouri" **and, after August 28, 2004, the commission number assigned by the secretary of state, provided that the notary public has been issued a**

commission number by the secretary of state, all of which shall be in print not smaller than eight-point type.

2. The indentations made by the seal embosser or printed by the black inked rubber stamp seal shall not be applied on the notarial certificate or document to be notarized in a manner that will render illegible or incapable of photographic reproduction any of the printed marks or writing on the certificate or document.

3. Every notary shall keep an official notarial seal that is the exclusive property of the notary and the seal may not be used by any other person or surrendered to an employer upon termination of employment.

486.295. CHANGE OF ADDRESS, NOTICE OF, EFFECT OF. — Any notary public who changes the address of his **or her** residence in the county within and for which he **or she** is commissioned shall forthwith mail or deliver **within thirty days of such change** a notice of the fact to the secretary of state including his **or her** old address and [his] current address. [The secretary of state shall notify the county clerk of the change of address.] The notary's commission shall remain in effect until its expiration date, unless sooner revoked.

486.300. CHANGE OF NAME BY NOTARY, NOTICE TO SECRETARY OF STATE, PROCEDURE, FEE — SIGNATURE, HOW SIGNED. — Any notary public who lawfully changes his **or her** name shall forthwith request **within thirty days of such change** an amended commission from the secretary of state and shall send [him] **to the secretary of state** five dollars, his **or her** current commission, and a notice of change form provided by the secretary of state, which shall include his **or her** new name and contain a specimen of his **or her** official signature. The secretary of state shall issue an amended commission to [him] **the notary public** in his **or her** new name and shall notify the clerk of the county within and for which the notary is commissioned. After requesting an amended commission, the notary may continue to perform notarial acts in his **or her** former name, until he **or she** receives the amended commission.

486.310. RESIGNATION, HOW EFFECTIVE. — If any notary public no longer desires to be a notary public, he **or she** shall forthwith mail or deliver to the secretary of state a letter of resignation, and his **or her** commission shall thereupon cease to be in effect. **If a notary public resigns following the receipt of a complaint by the secretary of state regarding the notary public's conduct, the secretary of state may deny any future applications by such person for appointment and commission as a notary public.**

486.315. REMOVAL FROM COUNTY OF RESIDENCE, EFFECT OF — AMENDED COMMISSION, WHEN, PROCEDURE, FEE. — If a notary public has ceased to have a residence address in the county within and for which he **or she** is commissioned, [his] **the** commission shall thereupon cease to be in effect, unless the secretary of state issues an amended commission. When a notary public, who has established a residence address in a county of the state other than the county in which he **or she** was first commissioned, requests an amended commission **within thirty days of changing the notary's county of residence**, delivers his **or her** current commission, notice of change form, and five dollars to the secretary of state, the secretary of state shall issue an amended commission to [him] **the notary public**, for the county in which his **or her** new residence is located and shall notify the county clerk of the county where the notary's new address is located. After requesting an amended commission **within thirty days of changing the notary's county of residence**, the notary may continue to perform notarial acts with certificates showing the county within and for which he **or she** is commissioned, until [he] **the notary** receives his **or her** amended commission.

486.330. FORM OF ACKNOWLEDGMENTS. — Except as otherwise provided in section 442.210, RSMo, certificates of acknowledgment shall be in **print not smaller than eight-point type and in** substantially the following form:

(1) By an Individual.

State of, County (and/or City) of, On this day of in the year before me, (name of notary), a Notary Public in and for said state, personally appeared (name of individual), known to me to be the person who executed the within (type of document), and acknowledged to me that (he) (**she**) executed the same for the purposes therein stated.

(2) By a Partner.

State of, County (and/or City) of, On this day of in the year before me, (name of notary), a Notary Public in and for said state, personally appeared (name of partner) of (name of partnership), known to me to be the person who executed the within (type of document) in behalf of said partnership and acknowledged to me that he **or she** executed the same for the purposes therein stated. (official signature and official seal of notary.)

(3) By a Corporate Officer.

State of, County (and/or City) of, On this day of in the year before me, (name of notary), a Notary Public in and for said state, personally appeared (name of officer), (title of person, president, vice president, etc.), (name of corporation), known to me to be the person who executed the within (type of document) in behalf of said corporation and acknowledged to me that he **or she** executed the same for the purposes therein stated. (official signature and official seal of notary.)

(4) By an Attorney in Fact for Principal or Surety.

State of, County (and/or City) of, On this day of, in the year before me, (name of notary), a Notary Public in and for said state, personally appeared (name of attorney in fact), Attorney in Fact for (name of principal or surety), known to me to be the person who executed the within (type of document) in behalf of said principal (or surety), and acknowledged to me that he **or she** executed the same for the purposes therein stated. (official signature and official seal of notary.)

(5) By a Public Officer, Deputy, Trustee, Administrator, Guardian or Executor.

State of, County (and/or City) of, On this day of, in the year, before me (name of notary), a Notary Public in and for said state, personally appeared (name of person),, (person's official title) known to me to be the person who executed the within (type of document) in behalf of (public corporation, agency, political subdivision or estate) and acknowledged to me that he **or she** executed the same for the purposes therein stated. (official signature and official seal of notary.)

(6) By a United States Citizen Who is Outside of the United States. (description or location of place where acknowledgment is taken)

On this day of, in the year, before me (name and title of person acting as a notary and refer to law or authority granting power to act as a notary), personally appeared (name of citizen) known to me to be the person who executed the within (type of document) and acknowledged to me that (he) (**she**) executed the same for the purposes therein stated. (official signature and official seal of person acting as a notary and refer to law or authority granting power to act as a notary.)

(7) By An Individual Who Cannot Write His **or Her** Name.

State of, County (and/or City) of, On this day of in the year, before me (name of notary), a Notary Public in and for said state, personally appeared (name of individual), known to me to be the person who, being unable to write his **or her** name, made his **or her** mark in my presence. I signed his **or her** name at his **or her** request and in [his] **that person's** presence on the within (type of document) and he **or she** acknowledged to me that he **or she** made his **or her** mark on the same for the purposes therein stated. (official signature and official seal of notary.)

(8) By a Manager or Member.

State of, County (and/or City) of, On this day of in the year before me, (name of notary), a Notary Public in and for said state, personally appeared (name of manager or member) of (name of limited liability company), known to me to be the person

who executed the within (type of document) in behalf of said limited liability company and acknowledged to me that he **or she** executed the same for the purposes therein stated. (official signature and official seal of notary.)

486.335. AFFIRMATIONS, FORM OF. — Affirmations shall be in **type not smaller than eight-point and in** substantially the following form:

(1) If the affirmation to be administered by the notary public is in writing and the person who took the affirmation has signed his **or her** name thereto, the notary public shall write or print under the text of the affirmation the following:

"Subscribed and affirmed before me this day of, [19] **20**...." (official signature and official seal of notary.)

(2) If the affirmation to be administered by the notary public is not in writing, the notary public shall address the affirmant substantially as follows:

"You do solemnly affirm, under the penalty of perjury, that the testimony you shall give in the matter in issue, pending between and, shall be the truth, the whole truth, and nothing but the truth."

486.340. EXECUTING WITNESS DEFINED — FORM OF AFFIDAVIT OF EXECUTING WITNESS. — 1. As used in this section, the words "executing witness" means an individual who acts in the place of a notary.

2. An executing witness may not be related by blood or marriage or have a disqualifying interest as defined in section 486.255.

3. The affidavit of executing witness for acknowledgment by an individual who does not appear before a notary shall be in **type not smaller than eight-point and in** substantially the following form:

I, (name of executing witness), do solemnly affirm under the penalty of perjury, that (name of person who does not appear before a notary), personally known to me, has executed the within (type of document) in my presence, and has acknowledged to me that (he/she) executed the same for the purposes therein stated and requested that I sign my name on the within document as an executing witness. (signature of executing witness)

Subscribed and affirmed before me this day of, [19] **20**.... (official signature and official seal of notary.)

486.345. FACSIMILE MAY BE CERTIFIED — FORM OF CERTIFICATION. — 1. A notary public may certify a facsimile of a document if he **or she** receives a signed written request stating that a certified copy or facsimile, preparation of a copy, or certification of a copy of the document does not violate any state or federal law.

2. Each notary public shall retain a facsimile of each document he **or she** has certified as a facsimile of another document, together with other papers or copies relating to his **or her** notarial acts.

3. The certification of a facsimile shall be in **type not smaller than eight-point and in** substantially the following form:

State of County (and/or City) of I, (name of notary), a Notary Public in and for said state, do certify that on (date) I carefully compared the attached facsimile of (type of document) and the facsimile I now hold in my possession. They are complete, full, true and exact facsimiles of the document they purport to reproduce. (official signature and official seal of notary.)

486.350. MAXIMUM FEES — OVERCHARGES OR CHARGE FOR ABSENTEE BALLOTS, EFFECT OF — TRAVEL FEE CHARGED, WHEN. — 1. The maximum fee in this state for notarization of each signature and the proper recording thereof in the journal of notarial acts is two dollars for each signature notarized.

2. The maximum fee in this state for certification of a facsimile of a document, and the proper recordation thereof in the journal of notarial acts is two dollars for each 8 1/2 x 11 inch page retained in the notary's file.

3. The maximum fee in this state is one dollar for any other notarial act performed.

4. No notary shall charge or collect a fee for notarizing the signature on any absentee ballot or absentee voter registration.

5. A notary public who charges more than the maximum fee specified or who charges or collects a fee for notarizing the signature on any absentee ballot or absentee voter registration is guilty of official misconduct.

6. A notary public may charge a travel fee, not to exceed the approved federal mileage rate and may charge an expedited convenience service fee not to exceed twenty-five dollars, when traveling to perform a notarial act, provided that:

(1) The notary explains to the person requesting the notarial act that the travel fee is separate from the notarial fee and is not specified or mandated by law; and

(2) The notary and the person requesting the notarial act agree upon his or her fees in advance of the notary affixing his or her official seal.

486.385. GROUNDS FOR REVOCATION OF COMMISSION. — 1. The secretary of state may **reject an application or** revoke the commission of any notary public who **prior to being commissioned or** during the current term of appointment:

(1) Submits an application for commission and appointment as a notary public which contains substantial and material misstatement of facts;

(2) Is convicted of any felony or official misconduct under this chapter;

(3) Fails to exercise the powers or perform the duties of a notary public in accordance with this chapter, **or fails otherwise to comply with the provisions of this chapter;**

(4) Is adjudged liable or agrees in a settlement to pay damages in any suit grounded in fraud, misrepresentation, impersonation, or violation of the state regulatory laws of this state, if his **or her** liability is not solely by virtue of his **or her** agency or employment relationship with another who engaged in the act for which the suit was brought;

(5) Uses false or misleading advertising wherein he **or she** represents or implies, by virtue of [his] **the** title of notary public, that he **or she** has qualifications, powers, duties, rights, or privileges that he **or she** does not possess by law;

(6) Engages in the unauthorized practice of law;

(7) Ceases to be a citizen of the United States;

(8) Ceases to be a registered voter of the county within and for which he **or she** is commissioned;

(9) Ceases to have a residence address in the county within and for which he **or she** is commissioned, unless he **or she** has been issued an amended commission;

(10) Becomes incapable of reading or writing the English language;

(11) Fails to maintain the surety bond required by section 486.235.

2. A notary's commission may be revoked under the provisions of this section [only] if action is taken subject to the rights of the notary public to notice, hearing, adjudication and appeal. **The secretary of state shall have further power and authority as is reasonably necessary to enable the secretary of state to administer this chapter efficiently and to perform the duties therein imposed upon the secretary of state, including immediate suspension of a notary upon written notice sent by certified mail if the situation is deemed to have a serious unlawful effect on the general public; provided, that the notary public shall be entitled to hearing and adjudication as soon thereafter as is practicable.**

486.395. CERTIFICATION OF NOTARY'S AUTHORITY BY THE SECRETARY OF STATE, FEE, FORM. — Upon the receipt of a written request, the notarized document and a fee of ten dollars

payable to the director of revenue, the secretary of state shall provide a certificate of authority in **type not smaller than eight-point and in** substantially the following form:

I, (appointing state official, or local or district office designated by appointing state official, name and title) of the State of (name of state) which office is an office of record having a seal, certify that (notary's name), by whom the foregoing or annexed document was notarized, was, at the time of the notarization of the same, a Notary Public authorized by the laws of this State to act in this State and to notarize the within (type of document), and I further certify that the Notary's signature on the document is genuine to the best of my knowledge, information, and belief and that such notarization was executed in accordance with the laws of this State.

In testimony whereof, I have affixed my signature and seal of this office this day of, [19] 20....

..... (secretary of state's signature, title, jurisdiction, address and the seal affixed near the signature.)

486.396. NOTARY SEAL STOLEN, PROCEDURE. — If the notary's notary seal has been stolen, the notary shall immediately notify the secretary of state in writing to report the theft. Upon receipt of the written documentation, the secretary of state shall issue the notary a new commission number for the notary to order a new seal. The secretary of state may post notice on the secretary of state's web site notifying the general public that the notary seal of such notary with the stolen commission number is invalid and is not an acceptable notary commission number.

Approved July 1, 2004

HB 1195 [SS SCS HS HCS HB 1195]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes various provisions related to professional registration.

AN ACT to repeal sections 190.092, 190.133, 337.510, 337.615, 337.703, 337.706, and 337.715, RSMo, and to enact in lieu thereof twenty-one new sections relating to professional registration, with penalty provisions.

SECTION

- A. Enacting clause.
- 190.092. Defibrillators, use authorized when, conditions, notice — good faith immunity from civil liability, when.
- 190.133. Emergency medical response agency license — limitations.
- 324.930. Definitions.
- 324.933. Board created, members, qualifications, terms, vacancies, expenses.
- 324.936. Exemptions from licensure requirements.
- 324.939. Application procedure, contents — qualifications of applicants — conditions of licensure — denial of licensure, when — fee — renewal.
- 324.942. Form of license, contents — posting of license — license card issued.
- 324.945. Agency license requirements — licensees responsible for conduct of employees and agents — maintaining of records.
- 324.948. Prohibited acts.
- 324.951. Advertisement requirements.
- 324.954. Sanctioning of a license, when — appeal procedure.
- 324.957. Board may subpoena persons and documents — enforcement of subpoenas — authority to administer oaths.
- 324.960. Rules.

- 324.965. Falsification of fingerprints, photographs, or information, penalty.
- 337.510. Education, experience requirements for licensure — reciprocity — provisional professional counselor license issued, when, requirements.
- 337.615. Education, experience requirements — reciprocity.
- 337.703. License required, exceptions.
- 337.706. License required, exception for persons licensed in other state.
- 337.715. Qualifications for licensure, exceptions.
 - 1. Certain facilities not to be licensed as a hospital — expiration date.
 - 2. Electrical contractor licenses issued by political subdivisions valid in all political subdivisions.
- 190.092. Defibrillators, use authorized when, conditions, notice — good faith immunity from civil liability, when.
- 190.133. Emergency medical response agency license — limitations.
 - B. Severability clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 190.092, 190.133, 337.510, 337.615, 337.703, 337.706, and 337.715, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 190.092, 190.133, 324.930, 324.933, 324.936, 324.939, 324.942, 324.945, 324.948, 324.951, 324.954, 324.957, 324.960, 324.965, 337.510, 337.615, 337.703, 337.706, 337.715, 1, and 2, to read as follows:

190.092. DEFIBRILLATORS, USE AUTHORIZED WHEN, CONDITIONS, NOTICE — GOOD FAITH IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person or entity that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.

2. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

3. Any person who has had appropriate training, including a course in cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator, and who gratuitously and in good faith renders emergency care when medically appropriate by use of or provision of an automated external defibrillator, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment, where the person acts as an ordinarily reasonable, prudent person would have acted under the same or similar circumstances. The person or entity who provides appropriate training to the person using an automated external defibrillator, the person or entity responsible for the site where the automated external defibrillator is located, and the licensed physician who reviews and approves the clinical protocol, shall likewise not be held liable for civil damages resulting from the use of an automated external defibrillator, provided that all other requirements of this section have been met. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo.

4. The provisions of this section shall apply in all counties within the state and any city not within a county.

190.133. EMERGENCY MEDICAL RESPONSE AGENCY LICENSE — LIMITATIONS. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an emergency medical response agency license.

2. The department shall issue a license to any emergency medical response agency which provides advanced life support if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical response agency including, but not limited to:

- (1) A licensure period of five years;
- (2) Medical direction;
- (3) Records and forms; and
- (4) Memorandum of understanding with local ambulance services.

3. Application for an emergency medical response agency license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make a determination as to whether the emergency medical response agency meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. No person or entity shall hold itself out as an emergency medical response agency that provides advanced life support or provide the services of an emergency medical response agency that provides advanced life support unless such person or entity is licensed by the department.

5. Only emergency medical response agencies, fire departments, and fire protection districts may provide certain ALS services with the services of EMT-Is.

6. Emergency medical response agencies functioning with the services of EMT-Is must work in collaboration with an ambulance service providing advanced life support with personnel trained to the emergency medical technician-paramedic level.

324.930. DEFINITIONS. — For the purposes of sections 324.930 to 324.965, the following terms mean:

- (1) "Board", the board of licensed private fire investigator examiners;
- (2) "Client", any person who engages the services of a private fire investigator;
- (3) "Division", the division of fire safety within the department of public safety;
- (4) "Insurance adjuster", any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;
- (5) "License", a private fire investigator license;
- (6) "Licensed private fire investigator", any person who receives any consideration, either directly or indirectly, for engaging in the investigation of the origin, cause, or responsibility of fires;
- (7) "Licensed private fire investigator agency", a person or firm that employs any person to engage in the investigation of fires to determine the origin, cause, and responsibility of such fires;
- (8) "Licensed private fire investigation", the furnishing of, making of, or agreeing to make any investigation of a fire for the origin, cause, or responsibility of such fire;
- (9) "Organization", a corporation, trust, estate, partnership, cooperation, or association;

- (10) "Person", an individual;
- (11) "Principal place of business", the place where the licensee maintains a permanent office which may be a residence or business address.

324.933. BOARD CREATED, MEMBERS, QUALIFICATIONS, TERMS, VACANCIES, EXPENSES.

— 1. The "Board of Licensed Private Fire Investigator Examiners" is hereby created within the division of fire safety. The board shall be composed of six members appointed by the governor, with the advice and consent of the senate. The board shall consist of:

- (1) The state fire marshal, or his or her designee;
- (2) A representative of a private fire investigation agency;
- (3) A representative of the insurance industry;
- (4) A representative of the Missouri chapter of the International Association of Arson Investigators;
- (5) A representative of the Professional Fire and Fraud Investigators Association;
- (6) A representative of the Kansas City Arson Task Force; and
- (7) One person who is an independent private fire investigator.

2. Each member of the board shall be a citizen of the United States, a resident of this state, at least thirty years of age, and shall have been actively engaged in fire investigation for the previous five years. No more than one board member shall be employed by or affiliated with the same licensed private fire investigation agency. The initial board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after appointment to the board.

3. The members of the board shall be appointed for terms of three years, except those first appointed, in which case two members shall be appointed for terms of three years, two members shall be appointed for terms of two years, and two members shall be appointed for a one-year term. Any vacancy on the board shall be filled for the remainder of the unexpired term of that member. The members of the board shall serve without pay, but they shall receive per diem expenses in an equivalent amount as allowed for members of the general assembly.

324.936. EXEMPTIONS FROM LICENSURE REQUIREMENTS. — The following persons or organizations shall not be deemed to be engaging in licensed private fire investigation:

- (1) Any officer or employee of the United States, this state, or a political subdivision of this state, or an entity organized under section 320.300, RSMo, while engaged in the performance of the officer's or employee's official duties;
- (2) An attorney performing duties as an attorney;
- (3) An investigator who is an employee of an insurance company;
- (4) Insurers, agents, and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;
- (5) An insurance adjuster; or
- (6) An investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment, who does not represent himself or herself to be a licensed private fire investigator.

324.939. APPLICATION PROCEDURE, CONTENTS — QUALIFICATIONS OF APPLICANTS

— **CONDITIONS OF LICENSURE — DENIAL OF LICENSURE, WHEN — FEE — RENEWAL.** — 1. Every person desiring to be licensed in this state as a licensed private fire investigator or licensed private fire investigator agency shall make an application to the board. An application for a license pursuant to the provisions of sections 324.930 to 324.965 shall be on a form prescribed by the board and accompanied by the required application fee. An application shall be verified and shall include:

- (1) The full name and business address of the applicant;

- (2) The name that the applicant intends to do business under;
- (3) A statement as to the general nature of the business that the applicant intends to engage in;
- (4) Two recent passport photographs of the applicant and two classifiable sets of the applicant's fingerprints;
- (5) A verified statement of the applicant's experience qualifications; and
- (6) Such other information, evidence, statements, or documents as may be required by the state fire marshal.

2. To be eligible for licensure, the applicant shall:

- (1) Be at least twenty-one years of age;
- (2) Be a citizen of the United States;
- (3) Not have a felony conviction or a conviction of a crime involving moral turpitude;
- (4) Provide proof of liability insurance with amount to be no less than one million dollars in coverage; and
- (5) Comply with such other qualifications as the board shall require.

For the purposes of sections 324.930 to 324.965, the record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

3. The board shall require as a condition of licensure that the applicant:

- (1) Successfully complete a course of training approved by the state fire marshal's office;
- (2) Pass a written examination as evidence of knowledge of fire investigation. Certification as a fire investigator by the state fire marshal or other agencies approved by the state fire marshal shall constitute passing a written examination;
- (3) Provide a background check from an authorized state law enforcement agency. The board shall conduct a complete investigation of the background of each applicant for licensure as a licensed private fire investigator or agency to determine whether the applicant is qualified for licensure pursuant to sections 324.930 to 324.965; and
- (4) Pass any other basic qualification requirements as the board shall outline.

4. The board may deny a request for a license if the applicant has:

- (1) Committed any act that, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to the provisions of sections 324.930 to 324.965;
- (2) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or the United States for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter or for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not a sentence is imposed;
- (3) Been refused a license pursuant to the provisions of sections 324.930 to 324.965 or had a license revoked in this state or in any other state;
- (4) Prior to being licensed, committed, aided, or abetted the commission of any act that requires a license pursuant to sections 324.930 to 324.965; and
- (5) Knowingly made any false statement in the application.

5. Every application submitted pursuant to the provisions of sections 324.930 to 324.965 shall be accompanied by a fee as determined by the board as follows:

- (1) A separate fee shall be paid for an individual license, agency license, and employees being licensed to work under an agency license; and
- (2) If a license is issued for a period of less than two years, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

6. All fees required pursuant to this section shall be paid to and collected by the division of fire safety and transmitted to the department of revenue for deposit in the state

general revenue fund. The board shall set fees at a level to produce revenue that will not substantially exceed or fail to cover the costs and expenses of administering sections 324.930 to 324.965. These fees shall be exclusive and no municipality may require any person licensed pursuant to sections 324.930 to 324.965 to furnish any bond or pass any examination to practice as a licensed private fire investigator.

7. Renewal of a license shall be made in the manner prescribed by the board, including the payment of a renewal fee.

324.942. FORM OF LICENSE, CONTENTS — POSTING OF LICENSE — LICENSE CARD ISSUED. — 1. The board shall determine the form of the license which shall include:

- (1) The name of the licensee;
- (2) The name under which the licensee is to operate; and
- (3) The number and date of the license.

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee.

3. Upon the issuance of the license, a pocket card of such size, design, and content as determined by the board shall be issued to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 324.930 to 324.965. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board for cancellation.

324.945. AGENCY LICENSE REQUIREMENTS — LICENSEES RESPONSIBLE FOR CONDUCT OF EMPLOYEES AND AGENTS — MAINTAINING OF RECORDS. — 1. The owner of a company seeking any agency license must first be licensed as a private fire investigator. The agency may hire individuals to work for the agency whom shall conduct investigations for such agency only. Persons hired shall make application as determined by the board and shall meet all requirements set forth by the board. They shall not be required to meet any experience requirements and shall be allowed to begin work immediately. Employees shall attend an approved training program within a time to be determined by the board and will be under the direct supervision of a licensed private fire investigator until all requirements are met.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee. A licensee is legally responsible for any acts committed by the licensee's employees or agents which are in violation of sections 324.930 to 324.965. A person receiving an agency license shall directly manage the agency and employees.

3. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board. Such licensee shall file with the board the complete address of the licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

324.948. PROHIBITED ACTS. — No licensee or officer, director, partner, associate, or employee of the licensee shall:

- (1) Knowingly make any false report to his or her employer or client for whom information was being obtained;
 - (2) Cause any written report to be submitted to a client except by the licensee and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;
 - (3) Use a title, wear a uniform, use an insignia or identification card, or make any statement with the intent to give an impression that such person is connected in any way
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with the federal or state government or any political subdivision of the federal or state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien;

(5) Manufacture false evidence;

(6) Allow anyone other than the individual licensed by the state to conduct an investigation; or

(7) Assign or transfer a license issued pursuant to sections 324.930 to 324.965.

324.951. ADVERTISEMENT REQUIREMENTS. — 1. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name and address as they appear in the records of the board.

2. A licensee shall not advertise or conduct business from any address in this state other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received a branch office certificate for such location after compliance with the provisions of sections 324.930 to 324.965 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office.

324.954. SANCTIONING OF A LICENSE, WHEN — APPEAL PROCEDURE. — 1. The board may deny a request for a license, or may suspend or revoke a license issued pursuant to sections 324.930 to 324.965, or censure or place a license on probation if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, RSMo, the board determines the licensee has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violated any provisions of sections 324.930 to 324.965;

(3) Violated any rule of the board adopted pursuant to the authority contained in sections 324.930 to 324.965;

(4) Been convicted of a felony or been convicted of a crime involving moral turpitude;

(5) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States, or of any state or political subdivision;

(6) Committed or permitted any employee to commit any act while the license was expired that could be cause for the suspension or revocation of any license, or grounds for the denial of an application for a license;

(7) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

(8) Used any letterhead, advertisement, or other printed matter or in any manner representing that such person is an instrumentality of the federal or state government or any political subdivision of a federal or state government;

(9) Used a name different from that under which such person is currently licensed in any advertisement, solicitation, or contact for business; or

(10) Committed any act that is grounds for denial of an application for a license pursuant to the provisions of sections 324.930 to 324.965.

2. Any person whose license status is affected by any official action of the state fire marshal or board of licensed private fire investigator examiners, including, but not limited to, revocation, suspension, failure to renew a license, or refusal to grant a license, may seek a determination by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo. After the filing of a complaint before the administrative hearing

commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 1 of this section, for disciplinary action are met, the board may singly or in combination censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years or may suspend, for a period not to exceed three years, or revoke the license.

3. A licensed private fire investigator agency may continue under the direction of another employee if the individual holding the license is suspended or revoked as approved by the board. The board shall establish a time from within which the licensed private fire investigator agency shall identify an acceptable person who is qualified to assume control of the agency as required by the board.

324.957. BOARD MAY SUBPOENA PERSONS AND DOCUMENTS — ENFORCEMENT OF SUBPOENAS — AUTHORITY TO ADMINISTER OATHS. — 1. For the purpose of enforcing the provisions of sections 324.930 to 324.965, or in making investigations relating to any violation thereof or to the character, competency, or integrity of the applicants or licensees, or for the purpose of investigating the business, business practices, or business methods of any applicant or licensee, or of the officers, directors, partners, or associates thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers that the board deems relative to the inquiry. A subpoena issued pursuant to this section shall be governed by this state's rules of civil procedure.

2. Any person subpoenaed who fails to obey such subpoena without reasonable cause or who without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualifications of such applicant or licensee or such applicant's or licensee's business, business practices, or methods or such violations shall be guilty of a class A misdemeanor.

3. The board may administer an oath and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage. The testimony of witnesses in any investigative proceeding shall be under oath and willful. False swearing in such proceeding shall be perjury.

324.960. RULES. — 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.930 to 324.965.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

324.965. FALSIFICATION OF FINGERPRINTS, PHOTOGRAPHS, OR INFORMATION, PENALTY. — Any person who knowingly falsifies the fingerprints or photographs or other information requested to be submitted pursuant to sections 324.930 to 324.965 is guilty of a class D felony. Any person who violates any other provisions of sections 324.930 to 324.965 is guilty of a class A misdemeanor.

337.510. EDUCATION, EXPERIENCE REQUIREMENTS FOR LICENSURE — RECIPROCITY — PROVISIONAL PROFESSIONAL COUNSELOR LICENSE ISSUED, WHEN, REQUIREMENTS. —

1. Each applicant for licensure as a professional counselor shall furnish evidence to the committee that:

(1) The applicant has met any one of the three following education-experience requirements:

(a) The applicant has received a doctoral degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the doctoral degree; or

(b) The applicant has received a specialist's degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the specialist's degree; or

(c) The applicant has received at least a master's degree with a major in counseling, or its equivalent, from an acceptable educational institution as defined by division rules, and has completed two years of acceptable supervised counseling experience subsequent to receipt of the master's degree. An applicant may substitute thirty semester hours of post-master's graduate study, or their equivalent, for one of the two required years of acceptable supervised counseling experience, if such hours are clearly related to the field of professional counseling and are earned from an acceptable educational institution.

(2) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics.

2. [Any person holding a valid unrevoked, unsuspended and unexpired license as a professional counselor issued by a state having substantially the same licensing requirements as this state shall be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.507.] **A licensed professional counselor who has had no violations and no suspensions and no revocation of a license to practice professional counseling in any jurisdiction may receive a license in Missouri provided said licensed professional counselor passes a written examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.500, and meets one of the following criteria:**

(1) Is a member in good standing and holds a certification from the National Board for Certified Counselors;

(2) Is currently licensed or certified as a licensed professional counselor in another state, territory of the United States, or the District of Columbia; and

(a) Meets one of the educational standards set forth in paragraphs (a) and (b) of subdivision (1) of subsection 1 of this section;

(b) Has been licensed for the preceding five years; and

(c) Has had no disciplinary action taken against the license for the preceding five years; or

(3) Is currently licensed or certified as a professional counselor in another state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.

3. Any person who previously held a valid unrevoked, unsuspended license as a professional counselor in this state and who held a valid license in another state at the time of application to the committee shall be granted a license to engage in professional counseling in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.507.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.500 to 337.540 and who furnishes evidence

satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) and (2) of subsection 1 of this section or with the provisions of subsection 2 or 3 of this section. The division shall issue a provisional professional counselor license to any applicant who meets all requirements of subdivisions (1) and (2) of subsection 1 of this section, but who has not completed the required one or two years of acceptable supervised counseling experience required by paragraphs (a) to (c) of subdivision (1) of subsection 1 of this section, and such applicant may reapply for licensure as a professional counselor upon completion of such acceptable supervised counseling experience.

337.615. EDUCATION, EXPERIENCE REQUIREMENTS — RECIPROCITY. — 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has twenty-four months of supervised clinical experience acceptable to the committee, as defined by rule;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. [Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for clinical social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.612] **A licensed clinical social worker who has had no violations and no suspensions and no revocation of a license to practice clinical social work in any jurisdiction may receive a license in Missouri provided said clinical social worker passes a written examination on Missouri laws and regulations governing the practice of clinical social work as defined in subdivision (1) of section 337.600, and meets one of the following criteria:**

(1) **Is a member in good standing and holds a certification from the Academy of Certified Social Workers;**

(2) **Is currently licensed or certified as a licensed clinical social worker in another state, territory of the United States, or the District of Columbia; and**

(a) **Who has received a masters or doctoral degree from a college or university program of social work accredited by the council of social work education;**

(b) **Has been licensed for the preceding five years; and**

(c) **Has had no disciplinary action taken against the license for the preceding five years; or**

(3) **Is currently licensed or certified as a clinical social worker in another state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.**

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.639 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2)

of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.703. LICENSE REQUIRED, EXCEPTIONS. — No person shall use the title of "licensed marital and family therapist" [and], "**marital and family therapist**", "**provisional marital and family therapist**", or engage in the practice of marital and family therapy in this state unless the person is licensed as required by the provisions of sections 337.700 to 337.739. Sections 337.700 to 337.739 shall not apply to:

(1) Any person registered, certificated or licensed by this state, another state or any recognized national certification agent acceptable to the division to practice any other occupation or profession while rendering services similar in nature to marital and family therapy in the performance of the occupation or profession in which the person is registered, certificated or licensed, so long as the person does not use the title of "licensed marital and family therapist", "**marital and family therapist**", or "**provisional marital and family therapist**";

(2) The practice of any marital and family therapist who is employed by any political subdivision, school district, agency or department of the state of Missouri while discharging the therapist's duties in that capacity; and

(3) Duly ordained ministers or clergy, religious workers and volunteers or Christian Science Practitioners.

337.706. LICENSE REQUIRED, EXCEPTION FOR PERSONS LICENSED IN OTHER STATE. —

1. For a period of six months from September 1, 1995, a person may apply for licensure without examination and shall be exempt from the academic requirements of sections 337.700 to 337.739 if the division is satisfied that the applicant:

(1) Has been a resident of the state of Missouri for at least the last six months; and

(2) Holds a valid license as a marital and family therapist from another state.

2. The division may determine by administrative rule the types of documentation needed to verify that an applicant meets the qualifications provided in subsection 1 of this section.

3. After March 1, 1996, no person may engage in marital and family therapy for compensation or hold himself or herself out as a "licensed marital and family therapist", "**marital and family therapist**", or "**provisional marital and family therapist**" unless the person complies with all educational and examination requirements and is licensed in accordance with the provisions of sections 337.700 to 337.739.

337.715. QUALIFICATIONS FOR LICENSURE, EXCEPTIONS. — 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the division that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the division, as the division determines by rule;

(3) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. [Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same or higher requirements as this state for marital and family therapists may be granted a license to engage in the person's occupation in this state upon application to the division

accompanied by the appropriate fee as established by the division pursuant to section 337.712.] A licensed marriage and family therapist who has had no violations and no suspensions and no revocation of a license to practice marriage and family therapy in any jurisdiction may receive a license in Missouri provided said marriage and family therapist passes a written examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.700, and meets one of the following criteria:

- (1) Is a member in good standing and holds a certification from the Academy of Marriage and Family Therapists;
- (2) Is currently licensed or certified as a licensed marriage and family therapist in another state, territory of the United States, or the District of Columbia; and
 - (a) Meets the educational standards set forth in subdivision (1) of subsection 1 of this section;
 - (b) Has been licensed for the preceding five years; and
 - (c) Has had no disciplinary action taken against the license for the preceding five years; or
- (3) Is currently licensed or certified as a marriage and family therapist in another state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.

3. The division shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739, and who furnishes evidence satisfactory to the division that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section.

SECTION 1. CERTAIN FACILITIES NOT TO BE LICENSED AS A HOSPITAL — EXPIRATION DATE. — The department of health and senior services shall not license any entity as a hospital, as the term "hospital" is defined in section 197.020, RSMo, that is devoted primarily or exclusively to surgical procedures, patients with a cardiac condition, patients with an orthopedic condition, or any other specialized category of patients or cases as may be determined by the director of the department. Nothing in this section shall prohibit licensure or certification of any entity as a hospital that is devoted primarily to care and treatment of children under the age of eighteen years, psychiatric patients, or patients undergoing rehabilitation care or to long-term care hospitals meeting the requirements described in 42 CFR sec. 412.23(e). The provisions of this section shall expire, and be of no effect, on and after August 28, 2005.

SECTION 2. ELECTRICAL CONTRACTOR LICENSES ISSUED BY POLITICAL SUBDIVISIONS VALID IN ALL POLITICAL SUBDIVISIONS. — 1. The holder of a current and active electrical contractor license issued by any political subdivision of this state, whose requirements are equal to or exceed the requirements for obtaining an electrical contractor license on August 28, 2004, in St. Louis County, shall be valid within any political subdivision of this state.

2. The provisions of this section shall not prohibit any political subdivision in this state from enforcing any code or law not contained herein, or to:

- (1) Issue an electrical contractor license valid for that political subdivision, except for a person who holds a license as provided in subsection 1 of this section;
 - (2) Require a business license to perform electrical contracting work;
 - (3) Issue electrical contracting permits;
 - (4) Enforce codes of the political subdivision; or
 - (5) Inspect the work of a licensee.
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3. Political subdivisions of this state that do not have the authority to issue or require electrical contractor licenses prior to August 28, 2004, shall not be granted such authority under the provisions of this section.

[190.092. DEFIBRILLATORS, USE AUTHORIZED WHEN, CONDITIONS, NOTICE — GOOD FAITH IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person or entity that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.

2. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

3. Any person who has had appropriate training, including a course in cardiopulmonary resuscitation, has demonstrated a proficiency in the use of an automated external defibrillator, and who gratuitously and in good faith renders emergency care when medically appropriate by use of or provision of an automated external defibrillator, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment, where the person acts as an ordinarily reasonable, prudent person, or with regard to a health care professional, including the licensed physician who reviews and approves the clinical protocol, as a reasonably prudent and careful health care provider would have acted, under the same or similar circumstances. Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538, RSMo.]

[190.133. EMERGENCY MEDICAL RESPONSE AGENCY LICENSE — LIMITATIONS. — 1. The department shall, within a reasonable time after receipt of an application, cause such investigation as the department deems necessary to be made of the applicant for an emergency medical response agency license.

2. The department shall issue a license to any emergency medical response agency which provides advanced life support if the applicant meets the requirements established pursuant to sections 190.001 to 190.245, and the rules adopted by the department pursuant to sections 190.001 to 190.245. The department may promulgate rules relating to the requirements for an emergency medical response agency including, but not limited to:

(1) A licensure period of five years;

(2) Medical direction;

(3) Records and forms; and

(4) Memorandum of understanding with local ambulance services.

3. Application for an emergency medical response agency license shall be made upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245. The application form shall contain such information as the department deems necessary to make

a determination as to whether the emergency medical response agency meets all the requirements of sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245.

4. No person or entity shall hold itself out as an emergency medical response agency that provides advanced life support or provide the services of an emergency medical response agency that provides advanced life support unless such person or entity is licensed by the department.

5. Only emergency medical response agencies licensed and serving in any county of the first classification without a charter form of government and with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants will be licensed to provide certain ALS services with the services of EMT-Is.

6. Emergency medical response agencies functioning with the services of EMT-Is must work in collaboration with an ambulance service providing advanced life support with personnel trained to the emergency medical technician-paramedic level.]

SECTION B. SEVERABILITY CLAUSE. — If any provision of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved July 9, 2004

HB 1198 [HCS HB 1198]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the Director of the Department of Insurance to have a designee receive notice and approve the payment of extraordinary dividends for insurance holding companies.

AN ACT to repeal section 382.210, RSMo, and to enact in lieu thereof one new section relating to extraordinary dividends for insurance holding companies.

SECTION

A. Enacting clause.

382.210. Extraordinary dividend, notice of — payment from earned surplus, when — allowed, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 382.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 382.210, to read as follows:

382.210. EXTRAORDINARY DIVIDEND, NOTICE OF — PAYMENT FROM EARNED SURPLUS, WHEN — ALLOWED, WHEN. — 1. No insurer subject to registration under section 382.100 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the director has received notice of the declaration thereof and has not within such period disapproved such payment, or the director has approved the payment within such thirty-day period. For purposes of this section, **net income excludes net realized capital gains to the extent that realized capital gains exceed realized capital losses, and** an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of dividends or distributions made within the period of

twelve consecutive months ending on the date on which the proposed dividends are scheduled for payment or distribution:

(1) For life [insurance companies and], title, **and property and casualty** insurance companies, such amount exceeds the greater of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is a title insurer, **or the net income, if the insurer is a property and casualty insurer**, for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities;

(2) For all other insurers, such amount exceeds the lesser of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net investment income for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

2. A life [or], title, **or property and casualty** insurer subject to registration under section 382.100 may only pay a shareholder dividend from earned surplus. With the prior approval of the director, a dividend may be declared from other than earned surplus.

3. No life [or], title, **or property and casualty** insurer subject to registration under section 382.100 shall pay any extraordinary dividend unless, after the transaction is completed, the company's surplus as regards policyholders is reasonable in relation to the company's outstanding liabilities and adequate to its financial needs. In making this determination, the director shall use the factors found in section 382.200 and may consider:

(1) The quality of the company's earnings and the extent to which the reported earnings include extraordinary items; or

(2) The recent past and projected future trend in the company's surplus as regards policyholders.

4. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the director's approval thereof, and the declaration shall confer no rights upon shareholders until the director has approved the payment of the dividend or distribution, or the director has not disapproved the payment within the thirty-day period referred to above.

Approved July 1, 2004

HB 1207 [SS HS HCS HB 1207]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes procedures for formation of certain levee districts.

AN ACT to repeal sections 245.015, 245.060, 245.095, and 246.305, RSMo, and to enact in lieu thereof four new sections relating to levee districts.

SECTION

A. Enacting clause.

245.015. Owners may form levee district, where — articles of incorporation to be filed in circuit court.

245.060. Election of board of supervisors — term of office.

245.095. Powers and duties of supervisors.

246.305. Alternative levee district, certain counties — voting rights — apportionment of taxes.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 245.015, 245.060, 245.095, and 246.305, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 245.015, 245.060, 245.095, and 246.305, to read as follows:

245.015. OWNERS MAY FORM LEVEE DISTRICT, WHERE — ARTICLES OF INCORPORATION TO BE FILED IN CIRCUIT COURT. — 1. The owners of a majority of the acreage in any contiguous body of swamp, wet or overflowed land or other property in the nature of individual or corporate franchises in this state, or land subject to overflow, wash or bank erosion, [situate] **located** in one or more counties or in [a third or fourth] **any city, town, or village in this state not located within any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, or in any third or fourth class city, town or village in this state which is located within any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants,** may form a levee district for the purpose of having such land and other property reclaimed and protected from the effects of overflow and other water, for sanitary or agricultural purposes, or from the effect of wash or bank erosion, or when the same may be conducive to the public health, convenience or welfare, or of public utility or benefit, by levee, or otherwise, and for that purpose they may make and sign articles of association in which shall be stated: The name of the district, and the number of years the same is to continue; the boundary lines of the proposed levee district; the names as listed on the county assessor's records of the owners of land or other individual or corporate franchise property in [said] **such** district, together with a plat of the district showing the lands to be covered in the district; [said] **such** articles shall further state that the owners of real estate and other such property within [said] **the** district whose names are subscribed to [said] **such** articles are willing to and do obligate themselves to pay the tax or taxes which may be assessed against their respective lands or other property to pay the expense of organizing, and of making and maintaining the improvements that may be necessary to effect the reclamation or protection of [said] **such** lands or other such property, so formed into a levee district, and to reclaim and to protect the same from the effects of overflow and other water, or from bank erosion or wash, and [said] **the** articles of association shall contain a petition praying that the lands and other property described therein be declared a levee district under the provisions of this law. After [said] **the** articles of association and petition have been so signed the same shall be filed in the office of the circuit clerk of the county in which such lands and other property are [situate] **located**; or, if such lands and other property be composed of tracts or parcels [situate] **located** in two or more different counties then in the office of the clerk of the circuit court of the county in which [there are situate] more of [said] **such** lands and other property **are located** than in any other county; provided, that in the event any work is to be done upon any navigable stream, the consent of the federal government shall be obtained to make such improvement or improvements before the actual work on the improvements shall be begun.

2. Any modifications to this section, as enacted by the ninety-second general assembly, second regular session, shall not be construed to enhance or limit the current law, and any interpretation thereof, with regard to where a levee district may or may not be formed within any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants nor any city, town, village, or other political subdivision contained therein.

245.060. ELECTION OF BOARD OF SUPERVISORS — TERM OF OFFICE. — Within thirty days after any levee district shall have been organized and incorporated under the provisions of section 245.025 the circuit clerk of the court organizing [said] **such** district shall, upon giving notice by causing publication to be made once a week for two consecutive weeks in some newspaper published in each county in which lands of the district are [situate] **located**, the last insertion to be at least ten days before the day of such meeting, call a meeting of the owners of

real estate or other property [situate] **located** in [said] **such** district, including the authorized representative of any corporation which owns real estate or other property [situate] **located** in [said] **such** district, at a day and hour specified in some public place in the county in which the district was organized, for the purpose of electing a board of five supervisors, to be composed of owners of real estate in [said] **the** district, which may include the authorized representative of any corporation which owns real estate or other property in [said] **the** district, two of whom at least shall be residents of the county or counties in which [said] **the** district is [situate] **located**, or some adjoining counties; the landowners, when assembled, shall organize by the election of a chairman and secretary of the meeting, who shall conduct the election; at such election each and every acre of land and each and every mile of right-of-way of every corporation owning a franchise in the district shall represent one share, and each owner shall be entitled to one vote in person or by proxy for every acre of land or mile of right-of-way owned by him **or her** in such district, and the five persons receiving the highest number of votes shall be declared elected as supervisors; and [said] **the** supervisors shall immediately by lot determine the terms of their office, which shall be respectively one, two, three, four and five years, and they shall serve until their successors shall have been elected and qualified; provided, that if the levee district be located **wholly** within a third or fourth class city of this state, or within any city in this state under fifty thousand population operating under a special charter then the owner of each lot, tract, parcel or subdivision thereof, as set forth in the final decree of the court creating and incorporating [said] **such** levee district, shall be entitled to one vote, in person or by proxy, for each lot, tract, parcel or subdivision thereof, owned by him **or her**.

245.095. POWERS AND DUTIES OF SUPERVISORS. — 1. In order to effect the leveeing, protection and reclamation of the land and other property in the district subject to tax, the board of supervisors is authorized and empowered to straighten, widen, change the course and line of any levee in or out of [said] **such** district; to fill up any creek, drain, channel, river, watercourse or natural stream; and to divert or divide the flow of water in or out of [said] **the** district; to construct and maintain sewers, levees, dikes, dams, sluices, revetments, drainage ditches, pumping stations, syphons and any other works and improvements deemed necessary to preserve and maintain the works in or out of [said] **the** district; to construct roadways over levees and embankments; to construct any and all of [said] **such** works and improvements across, through or over any public highway, railroad right-of-way, track, grade, fill or cut in or out of [said] **the** district; to remove any fence, building or other improvements in or out of [said] **the** district, and shall have the right to hold, control and acquire by donation or purchase, and if need be, condemn any land, easement, railroad or other right-of-way, sluice or franchise in or out of [said] **the** district for right-of-way, or for any of the purposes herein provided, or for material to be used in constructing and maintaining [said] **such** works and improvements for leveeing, protecting and reclaiming the lands in [said] **the** district. [Said] **The** board shall also have the right to condemn for the use of the district, any land or property within or without [said] **the** district not acquired or condemned by the court on the report of the commissioners assessing benefits and damages and shall follow the procedure that is now provided by law for the appropriation of land or other property taken for telegraph, telephone and railroad rights-of-way.

2. In addition to the powers granted in subsection 1 of this section, in any levee district formed under the laws of this state having an assessed valuation of real property of twenty-five million dollars or greater and located, in whole or in part, in any county with a charter form of government and with more than one million inhabitants, the board of supervisors is authorized to construct and maintain waterlines and any other works and improvements deemed necessary to preserve and maintain the works in or out of the district.

246.305. ALTERNATIVE LEVEE DISTRICT, CERTAIN COUNTIES — VOTING RIGHTS — APPORTIONMENT OF TAXES. — 1. In any levee district formed pursuant to the laws of this state

having assessed valuation of real property of twenty-five million dollars or greater, which is located in whole or in part in a county [having over nine hundred thousand in population] **with a charter form of government and with more than one million inhabitants** according to the last decennial census, the board of supervisors may by order, resolution or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the following alternative [procedures] **procedure** with respect to voting rights [and apportionment of installment taxes]:

[(1)] Voting by landowners of the levee district shall be determined on the basis of the assessed benefits of the property owned and the owner of each piece of property shall receive one vote per ten thousand dollars of assessed benefits, rounded to the next lowest amount in cases where assessed benefits do not evenly tally. In cases where the assessed benefits of a piece of property are below ten thousand dollars, the owner shall be entitled to one vote[;].

[(2)] **2. In any levee district formed under the laws of this state, the board of supervisors may, by order, resolution, or ordinance, following a public hearing thereon called upon notice as provided in section 245.060, RSMo, adopt the procedure in this subsection with respect to the apportionment of installment taxes.** After the making of a readjustment of the assessment of benefits pursuant to section 245.197, RSMo, then the board of supervisors shall reapportion and levy on each tract of land or other property in the district the taxes imposed under section 245.180, 245.190 or 245.198, RSMo, in proportion to the benefits assessed as readjusted and not in excess thereof. In case bonds have been issued as provided in sections 245.010 to 245.280, RSMo, then the amount of interest which will accrue on such bonds shall be included and added to said taxes as reapportioned and levied based upon the benefits assessed as readjusted. The secretary of the board of supervisors, as soon as said tax has been reapportioned, shall, at the expense of the district, prepare a list of all taxes as reapportioned and levied, in the form of a well-bound book, which book shall be endorsed and named "Readjusted Levee Tax Record of District", which endorsement shall also be printed or written at the top of each page of said book, and shall be signed and certified by the president and secretary of the board of supervisors, attested by the seal of the district, and the same shall thereafter become a permanent record in the office of [said] **the** secretary. The [said] board of supervisors shall each year thereafter determine, order and levy the amount of the annual installment of the total taxes levied under section 245.180, 245.190 or 245.198, RSMo, based upon such reapportionment, which shall in all other respects be due and collected as provided in section 245.185, RSMo.

Approved July 7, 2004

HB 1209 [HCS HB 1209]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the official state dinosaur.

AN ACT to amend chapter 10, RSMo, by adding thereto one new section relating to the official state dinosaur.

SECTION

- A. Enacting clause.
- 10.095. State dinosaur.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 10, RSMo, is amended by adding thereto one new section, to be known as section 10.095, to read as follows:

10.095. STATE DINOSAUR. — **The Hypsibema missouriensis dinosaur is hereby selected for, and shall be known as, the official dinosaur of the state of Missouri.**

Approved July 9, 2004

HB 1215 [SCS HCS HB 1215]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the crime of escape from commitment.

AN ACT to repeal section 575.195, RSMo, and to enact in lieu thereof one new section relating to escape from commitment, with a penalty provision and an emergency clause.

SECTION

- A. Enacting clause.
- 575.195. Escape from commitment — penalty.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 575.195, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 575.195, to read as follows:

575.195. ESCAPE FROM COMMITMENT — PENALTY. — 1. A person commits the crime of escape from commitment **or detention** if he **or she** has been committed to a state mental hospital under the provisions of [sections 202.700 to 202.770 or of] sections 552.010 to 552.080, RSMo, **or of sections 632.480 to 632.513, RSMo, or has been ordered to be taken into custody, detained, or held pursuant to sections 632.480 to 632.513, RSMo,** and he **or she** escapes from **such** commitment **or detention**.

2. Escape from commitment **or detention** is a class D felony.

SECTION B. EMERGENCY CLAUSE. — Because of the immediate danger posed to the public from sexual predators escaping from mental institutions without penalty, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 14, 2004

HB 1217 [SCS HB 1217]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes laws related to the St. Louis and Kansas City Police Retirement Systems.

AN ACT to repeal sections 86.223 and 86.690, RSMo, and to enact in lieu thereof two new sections relating to retirement systems of police employees within Kansas City and St. Louis.

SECTION

- A. Enacting clause.
- 86.223. Quorum, number of trustees constituting — majority vote required, when.
- 86.690. Death of member prior to or following retirement, payments made, how — additional one thousand dollar funeral benefit paid, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.223 and 86.690, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 86.223 and 86.690, to read as follows:

86.223. QUORUM, NUMBER OF TRUSTEES CONSTITUTING — MAJORITY VOTE REQUIRED, WHEN. — [Each trustee shall be entitled to one vote in the board. Six votes shall be necessary for a decision by the trustees at any meeting of the board] **Six trustees shall constitute a quorum for the transaction of business, and any official action of the board shall be based on the majority vote of the trustees present.**

86.690. DEATH OF MEMBER PRIOR TO OR FOLLOWING RETIREMENT, PAYMENTS MADE, HOW — ADDITIONAL ONE THOUSAND DOLLAR FUNERAL BENEFIT PAID, WHEN. — 1. Upon death after August 28, 2001, of a member for any cause prior to retirement, the following amounts shall be payable subject to subsection 5 of this section, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

(6) No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.

2. Upon death following retirement for any cause after August 28, 2001, of a member who has not elected the optional annuity pursuant to section 86.650, the member's surviving spouse shall receive a pension payable for life, equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse

of a member who retires after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage. If there be no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualifies for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

4. Should the total amount paid from the retirement system to a member, the member's surviving spouse, any other beneficiary of the member, and the funeral benefit under subsection 6 of this section be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

6. Upon receipt of the proper proof of death of a member in service after August 28, 2003, or the death of a member in service on or after August 28, 2003, who dies after having been retired and pensioned, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars. **Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a special consultant on the problems of retirement, aging, and other matters for the remainder of such member's life, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. Upon receipt of the proper proof of death of such member, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.**

Approved June 17, 2004

HB 1233 [HCS HB 1233]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows public entities that self-insure health care benefits to require reimbursement for medical claims paid when there is third-party liability.

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to subrogation rights of public entities.

SECTION

A. Enacting clause.

376.433. Self-insurance plans for health care, public entities — subject to Medicaid rights, obligations, and remedies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.433, to read as follows:

376.433. SELF-INSURANCE PLANS FOR HEALTH CARE, PUBLIC ENTITIES — SUBJECT TO MEDICAID RIGHTS, OBLIGATIONS, AND REMEDIES. — **1. Any public entity which provides, furnishes, or pays for hospital, medical, surgical, or other health care services under a plan of self-insurance to an employee or to any other person covered under the public entity's plan of self-insurance shall have the same rights and obligations, and be subject to the same remedies, as the department of social services has with Medicaid, as provided in section 208.215, RSMo.**

2. As used in this section, the term "public entity" shall have the same meaning ascribed to it in section 107.170, RSMo.

3. This section shall not apply to limited benefit supplemental health insurance policies paid for entirely by an employee of the public entity.

Approved June 25, 2004

HB 1246 [HCS HB 1246]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes various laws related to chiropractors.

AN ACT to repeal sections 331.010, 331.030, and 331.050, RSMo, and to enact in lieu thereof five new sections relating to chiropractors and their keeping of medical records.

SECTION

A. Enacting clause.

331.010. Practice of chiropractic, definition.

331.030. Application for license, requirements, fees — reciprocity — rulemaking, procedure.

331.050. License, renewal, requirements, fee — license lapse, reinstatement procedure — inactive license status, procedure.

331.110. Patient records required to be maintained, contents — corrections to records, procedure — obtaining records, procedure.

331.115. Missouri license not required, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 331.010, 331.030, and 331.050, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 331.010, 331.030, 331.050, 331.110, and 331.115, to read as follows:

331.010. PRACTICE OF CHIROPRACTIC, DEFINITION. — **1. The "practice of chiropractic" is defined as the science and art of examination, diagnosis, adjustment, manipulation and**

treatment of malpositioned articulations and structures of the body, both in inpatient and outpatient settings. The adjustment, manipulation, or treatment shall be directed toward restoring and maintaining the normal neuromuscular and musculoskeletal function and health. It shall not include the use of operative surgery, obstetrics, osteopathy, podiatry, nor the administration or prescribing of any drug or medicine nor the practice of medicine. The practice of chiropractic is declared not to be the practice of medicine and operative surgery or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter.

2. A licensed chiropractor may practice chiropractic as defined in subsection 1 of this section by those methods commonly taught in any chiropractic college recognized and approved by the board.

3. Chiropractors may advise and instruct patients in all matters pertaining to hygiene, nutrition, and sanitary measures as taught in any chiropractic college recognized and approved by the board.

4. The practice of chiropractic may include meridian therapy/acupressure/acupuncture with certification as required by the board.

331.030. APPLICATION FOR LICENSE, REQUIREMENTS, FEES — RECIPROCITY — RULEMAKING, PROCEDURE. — 1. No person shall engage in the practice of chiropractic without having first secured a chiropractic license as provided in this chapter.

2. Any person desiring to procure a license authorizing the person to practice chiropractic in this state shall be at least twenty-one years of age and shall make application on the form prescribed by the board. The application shall contain a statement that it is made under oath or affirmation and that representations contained thereon are true and correct to the best knowledge and belief of the person signing the application, subject to the penalties of making a false affidavit or declaration, and shall give the applicant's name, address, age, sex, name of chiropractic schools or colleges which the person attended or of which the person is a graduate, and such other reasonable information as the board may require. The applicant shall give evidence satisfactory to the board of the successful completion of the educational requirements of this chapter, that the applicant is of good moral character, and that the chiropractic school or college of which the applicant is a graduate is teaching chiropractic in accordance with the requirements of this chapter. The board may make a final determination as to whether or not the school from which the applicant graduated is so teaching.

3. Before a person shall be eligible to sit for a practical examination, the applicant shall furnish evidence satisfactory to the board that the applicant has received, prior to entering chiropractic college, a minimum of sixty credit hours, leading to a baccalaureate degree, from a preprofessional college, which credit must be in those subjects, hours and course content as may be provided for by the Council on Chiropractic Education or, in the absence of the Council on Chiropractic Education or its provision for such subjects, hours and course content, as adopted by rule of the board. The examination applicant shall also provide evidence satisfactory to the board of having graduated from a chiropractic college having status with the Commission on Accreditation of the Council on Chiropractic Education or its successor. Any senior student in a chiropractic college having status with the Commission on Accreditation on the Council on Chiropractic Education or its successor, may take a practical examination administered or approved by the board under such requirements and conditions as are adopted by the board by rule, but no license shall be issued until all of the requirements for licensure have been met.

4. Each applicant shall pay upon application an application or examination fee. All moneys collected pursuant to the provisions of this chapter shall be nonrefundable and shall be collected by the director of the division of professional registration who shall transmit it to the department of revenue for deposit in the state treasury to the credit of the chiropractic board fund. Any person failing to pass a practical examination administered or approved by the board may be reexamined upon fulfilling such requirements, including the payment of a reexamination fee, as the board may by rule prescribe.

5. Every applicant for licensure by examination shall have taken and successfully passed all required and optional parts of the written examination given by the National Board of Chiropractic Examiners, including the written clinical competency examination, under such conditions as established by rule of the board, and all applicants for licensure by examination shall successfully pass a practical examination administered or approved by the board and a written examination testing the applicant's knowledge and understanding of the laws and regulations regarding the practice of chiropractic in this state. The board shall issue to each applicant who meets the standards and successful completion of the examinations, as established by rule of the board, a license to practice chiropractic. The board shall not recognize any correspondence work in any chiropractic school or college as credit for meeting the requirements of this chapter.

6. The board shall issue a license without examination to persons who have been regularly licensed to practice chiropractic in any other state, territory, or the District of Columbia, or in any foreign country, [provided that the licensing authority grants equivalent reciprocal licensing to Missouri licensees and] provided that the regulations for securing a license in the other jurisdiction are equivalent to those required for licensure in the state of Missouri, when the applicant furnishes satisfactory evidence that the applicant has continuously practiced chiropractic for at least one year immediately preceding the applicant's application to the board and that the applicant is of good moral character, and upon the payment of the reciprocity license fee as established by rule of the board. The board may require an applicant to successfully complete the special purposes examination for chiropractic (SPEC) administered by the National Board of Chiropractic Examiners if the [applicant's licensing authority does not grant equivalent reciprocal licensing to Missouri licensees, or if the] requirements for securing a license in the other jurisdiction are not equivalent to those required for licensure in the state of Missouri **at the time application is made for licensure under this subsection.**

7. Any applicant who has failed any portion of the practical examination administered or approved by the board three times shall be required to return to an accredited chiropractic college for a semester of additional study in the subjects failed, as provided by rule of the board.

8. A chiropractic physician currently licensed in Missouri shall apply to the board for certification prior to engaging in the practice of meridian therapy/acupressure/acupuncture. Each such application shall be accompanied by the required fee. The board shall establish by rule the minimum requirements for the specialty certification under this subsection. Meridian therapy/acupressure/acupuncture shall mean methods of diagnosing and the treatment of a patient by stimulating specific points on or within the body by various methods including but not limited to manipulation, heat, cold, pressure, vibration, ultrasound, light, electrocurrent, and short-needle insertion for the purpose of obtaining a biopositive reflex response by nerve stimulation.

9. The board may through its rulemaking process authorize chiropractic physicians holding a current Missouri license to apply for certification in a specialty as the board may deem appropriate and charge a fee for application for certification, provided that:

(1) The board establishes minimum initial and continuing educational requirements sufficient to ensure the competence of applicants seeking certification in the particular specialty; and

(2) The board shall not establish any provision for certification of licensees in a particular specialty which is not encompassed within the practice of chiropractic as defined in section 331.010.

331.050. LICENSE, RENEWAL, REQUIREMENTS, FEE — LICENSE LAPSE, REINSTATEMENT PROCEDURE — INACTIVE LICENSE STATUS, PROCEDURE. — 1. All persons once licensed to practice chiropractic in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the board satisfactory evidence of the completion of the requisite number of hours, which shall not be less than twelve hours nor more than twenty-four hours per year, of

postgraduate study or not less than twenty-four hours nor more than forty-eight hours if renewal occurs biennially. The postgraduate study required shall be a course of study approved by the board. The requisite number of hours is to be determined by the board. The board may set the requisite number of hours between the range of twelve to twenty-four hours, but may not increase the number of hours in excess of twelve hours by more than four hours in any two-year period. The board shall give advance notice of one year to all chiropractors licensed in the state before increasing the number of required hours. The educational requirements may be waived by the board upon presentation to it of satisfactory evidence of the illness of the chiropractor or for other good cause. A notice that the renewal fee will be due on the renewal date shall, on or before the first day of the month immediately preceding the renewal date, be mailed to all chiropractors licensed in the state for more than three months. Each practitioner of chiropractic shall display in his or her office, in a conspicuous place, his or her renewal license together with his or her original license showing that such practitioner of chiropractic is lawfully entitled to practice chiropractic. Failure of the licensee to receive the renewal form shall not relieve the licensee of the duty to renew his or her license and pay the fee required by this chapter.

2. Any licensee who allows his or her license to lapse by failing to renew the license as provided in sections 331.010 to 331.100 may be reinstated upon satisfactory explanation of such failure to renew his or her license and the payment of a reactivation fee and the current renewal fee. Any delinquent licensee who has been out of active practice for more than [three] **five** years shall be required to return to an accredited chiropractic college for a semester of additional study in the clinical subjects prior to the board reviewing his or her request for reinstatement, and to pass a practical examination administered by the board.

3. **Notwithstanding any law to the contrary any person licensed pursuant to this chapter may apply to the state board of chiropractic examiners for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the license meets the requirements established by rule the board shall place the license on inactive status. A person whose license is inactive or who has discontinued the practice of chiropractic because of retirement shall be allowed to practice only on himself or herself and such person's immediate family.**

4. **During any period of inactive status the licensee shall not be required to comply with the board's requirements for continuing education.**

5. **If a licensee is granted inactive status the licensee may return to active status within five years of the license being placed on inactive status by notifying the board in advance in writing, paying the appropriate fees, and meeting all established requirements of the board as defined by rule excluding the licensing examination as a condition of reinstatement.**

331.110. PATIENT RECORDS REQUIRED TO BE MAINTAINED, CONTENTS — CORRECTIONS TO RECORDS, PROCEDURE — OBTAINING RECORDS, PROCEDURE. — 1. Chiropractors shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided that the record-keeping format is capable of being printed for review by the state board of chiropractic examiners. An adequate and complete patient record shall include documentation of the following information:

- (1) Identification of the patient including name, birth date, address, and telephone number;**
- (2) The date or dates the patient was seen;**
- (3) The current status of the patient including the reason for the visit;**
- (4) Observation of pertinent physical findings;**
- (5) Assessment and clinical impression or diagnosis, to the extent authorized by section 331.010;**
- (6) Plan for care and treatment or additional consultations or diagnostic testing, if necessary, to the extent authorized by section 331.010;**

(7) Any informed consent for office procedures or tests, to the extent authorized by section 331.010.

2. Patient records remaining under the care, custody, and control of the licensee shall be maintained by the licensee of the board or the licensee's designee for a minimum of seven years from the date of when the last professional service was provided.

3. Any correction, addition, or change in any patient record made more than forty-eight hours after the final entry is entered in the record and signed by the chiropractor shall be clearly marked and identified as such and the date, time, and name of the person making the correction, addition, or change shall be included as well as the reason for the correction, addition, or change.

4. The board shall not initiate disciplinary action under section 331.060, against a licensee solely based on a violation of this section. If the board initiates disciplinary action against the licensee for any reason other than a violation of this section the board may allege violation of this section as an additional cause for discipline under section 331.060.

5. The board shall not obtain a medical record of a patient without written authorization from the patient to obtain the medical record or the issuance of a subpoena for the medical record of the patient.

331.115. MISSOURI LICENSE NOT REQUIRED, WHEN. — A chiropractic physician licensed outside of this state shall not be required to obtain a Missouri license when:

(1) In consultation as a result of transmission of individual patient data by electronic or other means from within this state to an out-of-state licensed chiropractor with a chiropractor licensed to practice in this state, so long as a chiropractor licensed in this state retains ultimate authority and responsibility for the diagnosis or treatment in the care of the patient located within this state; or

(2) Evaluating a patient or rendering an oral or written chiropractic opinion, in connection with providing testimony or reviewing records for the purpose of any civil, criminal, or administrative proceeding in this state.

Approved July 2, 2004

HB 1253 [SCS HCS HB 1253]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various insurance provisions.

AN ACT to repeal sections 375.246, 375.1198, 375.1220, and 379.825, RSMo, and to enact in lieu thereof four new sections relating to insurance.

SECTION

A. Enacting clause.

375.246. Reinsurance, when allowed as an asset or reduction from liability.

375.1198. Mutual credits or debts, setoffs allowed — exceptions.

375.1220. Claim disputes — duty of liquidator — estimates allowed, when — commutation and release.

379.825. Issuance of policy, when — appointment of liability assumed — expenses — limits on liability.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 375.246, 375.1198, 375.1220, and 379.825, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 375.246, 375.1198, 375.1220, and 379.825, to read as follows:

375.246. REINSURANCE, WHEN ALLOWED AS AN ASSET OR REDUCTION FROM LIABILITY. — 1. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivisions (1) to (5) of this subsection. Credit shall be allowed pursuant to subdivision (1), (2) or (3) of this subsection only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed pursuant to subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision (6) have been satisfied.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance in this state;

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

- (a) Files with the director evidence of its submission to this state's jurisdiction;
- (b) Submits to the authority of the department of insurance to examine its books and records;
- (c) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(e) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars and whose accreditation has not been denied by the director within ninety days of its submission; or

(f) Maintains a surplus as regards policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the director.

No credit shall be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the director after notice and hearing;

(3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars; except that this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system; and

(b) Submits to the authority of the department of insurance to examine its books and records;

(4) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section, for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the director to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the director.

(b) Credit for reinsurance shall not be granted pursuant to this subdivision unless the form of the trust and any amendments to the trust have been approved by:

a. The commissioner or director of the state agency regulating insurance in the state where the trust is domiciled; or

b. The commissioner or director of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(c) The form of the trust and any trust amendments shall also be filed with the commissioner or director in every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director.

(d) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February twenty-eighth of each year the trustees of the trust shall report to the director in writing the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the next following December thirty-first.

(e) The following requirements apply to the following categories of assuming insurers:

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by the United States ceding insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars;

b. In the case of a group of incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after August 1, 1995, the trust shall consist of a trustee account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trustee account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business in the United States; and

(iii) In addition to these trusts, the group shall maintain in trust a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account;

c. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members;

d. Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group;

(5) Credit:

(a) Shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this subsection, but only as to the insurance of risks located in a jurisdiction of the United States where the reinsurance is required by applicable law or regulation of that jurisdiction;

(b) May be allowed in the discretion of the director when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this subsection, but only as to the insurance of risks located in a foreign country where the reinsurance is required by applicable law or regulation of that country;

(6) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer shall submit to the jurisdiction of the courts of this state, will comply with all requirements necessary to give such courts jurisdiction, and will abide by the final decisions of such courts or of any appellate courts in this state in the event of an appeal; and

(b) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement and the jurisdiction and situs of the arbitration is, with respect to any receivership of the ceding company, any jurisdiction of the United States;

(7) If the assuming insurer does not meet the requirements of subdivision (1), (2) or (3) of this subsection, the credit permitted by subdivision (4) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (e) of subdivision (4) of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner or director with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner or director with regulatory oversight all of the assets of the trust fund;

(b) The assets shall be distributed by and claims shall be filed with and valued by the commissioner or director with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;

(c) If the commissioner or director with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner or director with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(d) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.

2. An asset or reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection 1 of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section. This security may be in the form of:

(1) Cash;

(2) Securities listed by the securities valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets;

(3) (a) Clean, irrevocable, unconditional letters of credit, as defined in subdivision (1) of subsection 3 of this section, issued or confirmed by a qualified United States financial institution no later than December thirty-first of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement.

(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent

failure to meet applicable standards of issuer acceptability, shall continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs;

(4) Any other form of security acceptable to the director.

3. (1) For purposes of subdivision (3) of subsection 2 of this section, a "qualified United States financial institution" means an institution that:

(a) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the director, or the securities valuation office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(2) A "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

4. The director may adopt rules and regulations implementing the provisions of this section.

5. (1) The director shall disallow any credit as an asset or as a deduction from liability for any reinsurance found by him to have been arranged for the purpose principally of deception as to the ceding company's financial condition as of the date of any financial statement of the company. Without limiting the general purport of this provision, reinsurance of any substantial part of the company's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the assuming insurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception within the intent of this provision.

(2) (a) The director shall also disallow as an asset or deduction from liability to any ceding insurer any credit for reinsurance unless the reinsurance is payable to the ceding company, and if it be [impaired or] insolvent to its receiver, by the assuming insurer on the basis of the liability of the ceding company under the contracts reinsured without diminution because of the insolvency of the ceding company.

(b) Such payments shall be made directly to the ceding insurer or to its domiciliary liquidator except:

a. Where the contract of insurance or reinsurance specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the insolvency of the ceding insurer; or

b. Where the assuming insurer, with the consent of it and the direct insured or insureds in an assumption reinsurance transaction subject to sections 375.1280 to 375.1295, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

(c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such

reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for such claim payment.

(d) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

6. To the extent that any reinsurer of an insurance company in liquidation would have been required under any agreement pertaining to reinsurance to post letters of credit or other security prior to an order of liquidation to cover such reserves reflected upon the last financial statement filed with a regulatory authority immediately prior to receivership, such reinsurer shall be required to post letters of credit or other security to cover reserves after a company has been placed in liquidation or receivership. If a reinsurer shall fail to post letters of credit or other security as required by a reinsurance agreement or the provisions of this subsection, the director may consider disallowing as a credit or asset, in whole or in part, any future reinsurance ceded to such reinsurer by a ceding insurance company that is incorporated under the laws of the state of Missouri.

7. The provisions of section 375.420 shall not apply to any action, suit or proceeding by a ceding insurer against an assuming insurer arising out of a contract of reinsurance effectuated in accordance with the laws of Missouri.

8. The provisions of this section shall become effective on January 1, 2003, and shall be applicable to the financial statements of a reinsurer as of December 31, 2002.

375.1198. MUTUAL CREDITS OR DEBTS, SETOFFS ALLOWED — EXCEPTIONS. — 1. Mutual debts or mutual credits, whether arising out of one or more contracts, between the insurer and another person in connection with any action or proceeding under sections 375.1150 to 375.1246, sections 374.216 and 374.217, RSMo, and section 382.302, RSMo, shall be set off and the balance only shall be allowed or paid, except as provided in subsections 2, 3, 4, 5 and 6 of this section and section 375.1204.

2. No setoff shall be allowed in favor of any person where:

(1) The obligation of the insurer to the person would not as of the date of the filing of a petition for liquidation entitle the person to share as a claimant in the assets of the insurer; or

(2) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff; or

(3) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or

(4) The obligation of the insurer is owed to an affiliate of such person or to any entity or association, rather than the person; or

(5) The obligation of the person is owed to an affiliate of the insurer or to any other entity or association, rather than the insurer; or

(6) The obligations between the person and the insurer arise from reinsurance relationships resulting in business [which is both ceded to and assumed from the insurer] **where either the**

person or the insurer has assumed risks and obligations from the other party and then has ceded back to that party substantially the same risks and obligations.

3. [As soon as practicable, the receiver shall provide persons who assumed business from the insurer as reinsurers with statements of account identifying debts which are currently due and payable to the insurer. Such persons may set off against such debts only mutual credits which are currently due and payable by the insurer to such persons for the period covered by the accounting statements.

4. A person who ceded business to the insurer may set off debts due the insurer against only those mutual credits which the person has paid or which have been allowed in a delinquency proceeding.

5. Notwithstanding the foregoing, a setoff of sums due on obligations in the nature of those prescribed in subdivision (6) of subsection 2 of this section shall be allowed for those debts accruing from business written under reinsurance contracts which were entered into, renewed or extended with the express written approval of the director where Missouri is the state of domicile of the insolvent insurer and when in the judgment of the director such action is deemed necessary or advisable in order to prevent or mitigate a threatened impairment or insolvency of a domiciliary insurer, in connection with supervision or conservation proceedings pursuant to this act or otherwise in connection with the exercise of the director's regulatory responsibilities concerning a threatened impairment or insolvency without the institution of any delinquency proceedings.

6.] The provisions of this section shall apply to all obligations incurred under contracts entered into, renewed, or extended on or after July 1, 1992, and to any existing contract with a termination date longer than one year from January 1, 1993[, and shall supersede any contractual provisions which might be construed to enlarge the setoff rights of any person under any contract with the insurer; provided that the provisions of subdivision (6) of subsection 2 and subsections 3, 4 and 5 of this section shall not apply to insurers or reinsurers until such time that the director determines that substantially similar provisions are effective in a sufficient number of states so as not to place domestic insurers or reinsurers at a competitive disadvantage. The director shall promulgate a rule announcing any determination as is necessitated by this subsection].

375.1220. CLAIM DISPUTES — DUTY OF LIQUIDATOR — ESTIMATES ALLOWED, WHEN — COMMUTATION AND RELEASE. — 1. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as the liquidator shall deem necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be allowed, under the supervision of the court, except where the liquidator is required by law to accept claims as settled by any person or organization. Unresolved disputes shall be determined pursuant to section 375.1214. No claim under a policy of insurance shall be allowed for any amount in excess of the applicable policy limits or without regard to policy deductibles.

2. If the fixing or liquidation of any claim or claims would unduly delay the administration of the liquidation or if the administrative expense of processing and adjudication of a claim or group of claims of a similar type would be unduly excessive when compared with the moneys which are estimated to be available for distribution with respect to such claim or group of claims, the determination and allowance of such claim or claims may be made by an estimate. Any such estimate shall be based upon an actuarial evaluation made with reasonable actuarial certainty or upon another accepted method of valuing claims with reasonable certainty.

3. The estimation of contingent liabilities permitted by subsection 2 of this section or any other section of this chapter may be used for the purpose of fixing a creditor's claim in the estate, and for determining the percentage of partial or final dividend payments to be paid to creditors with reported allowed claims. However, nothing in subsection 2 of this section or any other section in this chapter shall be construed as authorizing the receiver, or any other entity, to compel payment from a reinsurer on the basis of estimated incurred but not reported losses and, except with respect to claims made pursuant to section 375.1212, outstanding reserves. Nothing

in this subsection shall be construed to impair any obligation arising pursuant to any insurance agreement. **Expert testimony concerning estimates of incurred but not reported losses may be received in evidence in any tribunal whether offered by the receiver or by the reinsurer, if such testimony is otherwise admissible pursuant to section 490.065, RSMo.**

4. Notwithstanding the provisions of this section or any other section of this chapter to the contrary, the liquidator may negotiate a voluntary commutation and release of all obligations arising from reinsurance contracts or other agreements.

5. The provisions of subsection 3 of this section shall not apply to and have no force and effect regarding any formal delinquency proceeding in which, prior to August 28, 1999, the court in which such proceeding was or is pending issued any order or decree construing or applying the provisions of this section.

[6. Subsections 3 and 5 of this section shall terminate on December 31, 2005.]

379.825. ISSUANCE OF POLICY, WHEN — APPOINTMENT OF LIABILITY ASSUMED — EXPENSES — LIMITS ON LIABILITY. — 1. The facility, upon receipt of an application for coverage and the corresponding inspection report from the inspection bureau, shall, after it finds that the property is eligible for insurance under this program, issue a policy.

2. The facility shall apportion the liability so assumed to the insurers in the manner hereinafter provided in section 379.835.

3. Assessments upon each insurer in the program for expenses in connection with program business shall be levied and assessed by the governing committee of the facility in the manner hereinafter provided in section 379.835, subject to such minimum assessment as shall be established by the governing committee.

4. Subject to the insurable value thereof, the maximum limits of liability which may be placed through this program are: on any habitational property at one location, [one] **two** hundred thousand dollars; and on any commercial property at one location, one million dollars. The facility will endeavor to assist in placement when the requested amount of insurance exceeds the maximum limit of liability available under this program. The word "location" as used herein means real and personal property consisting of and contained in a single building or consisting of and contained in contiguous buildings under one ownership.

Approved June 24, 2004

HB 1259 [HB 1259]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Gives car dealers or manufacturers the right to file a complaint with the Administrative Hearing Commission if the Department of Revenue refuses to issue or renew their license.

AN ACT to repeal section 301.562, RSMo, and to enact in lieu thereof one new section relating to the licensure of motor vehicle dealers and manufacturers.

SECTION

A. Enacting clause.

301.562. License suspension, revocation, refusal to renew — procedure — grounds — complaint may be filed, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.562, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.562, to read as follows:

301.562. LICENSE SUSPENSION, REVOCATION, REFUSAL TO RENEW — PROCEDURE — GROUNDS — COMPLAINT MAY BE FILED, WHEN. — 1. The department may refuse to issue or renew any license required pursuant to sections 301.550 to 301.573 for any one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant or licensee in writing at his **or her** last known address of the reasons for the refusal to issue or renew the license and shall advise the applicant or licensee of his **or her** right to [appeal the decision of the department as provided in chapter 536, RSMo] **file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

2. The department may [take such disciplinary action as provided in subsection 3 of this section upon a written notice and an opportunity to be heard in substantially the same manner as provided in chapter 536, RSMo] **cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo,** against any holder of any license issued under sections 301.550 to 301.573 for any one or any combination of the following causes:

(1) The applicant or license holder was previously the holder of a license issued under sections 301.550 to 301.573, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled;

(2) The applicant or license holder was previously a partner, stockholder, director or officer controlling or managing a partnership or corporation whose license issued under sections 301.550 to 301.573 was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled;

(3) The applicant or license holder has, within ten years prior to the date of the application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any business licensed under sections 301.550 to 301.573; for any offense, an essential element of which is fraud, dishonesty, or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(4) Use of fraud, deception, misrepresentation, or bribery in securing any license issued pursuant to sections 301.550 to 301.573;

(5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange, or other compensation by fraud, deception, or misrepresentation;

(6) Violation of, or assisting or enabling any person to violate any provisions of sections 301.550 to 301.573 or of any lawful rule or regulation adopted pursuant to sections 301.550 to 301.573;

(7) The applicant or license holder has filed an application for a license which, as of its effective date, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(8) The applicant or license holder has failed to pay the proper application or license fee or fails to establish or maintain a bona fide place of business;

(9) Uses or permits the use of any special license or license plate assigned to [him] **the license holder** for any purpose other than those permitted by law;

(10) The applicant or license holder is finally adjudged insane or incompetent by a court of competent jurisdiction;

(11) Use of any advertisement or solicitation which is false;

(12) Violations of sections 301.550 to 301.573 or violations of this chapter, sections 407.511 to 407.556, RSMo, section 578.120, RSMo, which resulted in a felony conviction or

finding of guilt or violation of any federal motor vehicle laws which result in a felony conviction or finding of guilt.

3. **Any such complaint shall be filed within one year of the date upon which the department receives notice of an alleged violation of an applicable statute or regulation. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo.** Upon a finding by the [department] **administrative hearing commission** that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may, **singly or in combination**, refuse to issue the person a license, issue a private reprimand, place the person on probation on such terms and conditions as the department deems appropriate for a period of one day to five years, suspend the person's license from one day to six days, or revoke the person's license for such period as the department deems appropriate. The applicant or licensee shall have the right to appeal the decision of the **administrative hearing commission and** department in the manner provided in chapter 536, RSMo.

4. Upon the suspension or revocation of any person's license issued under sections 301.550 to 301.573, the department shall recall any distinctive number plates that were issued to that licensee.

Approved July 1, 2004

HB 1268 [SS#2 SCS HS HCS HB 1268 & 1211]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Relating to employees.

AN ACT to repeal sections 285.300, 288.030, 288.032, 288.034, 288.036, 288.038, 288.040, 288.050, 288.060, 288.090, 288.100, 288.110, 288.120, 288.121, 288.122, 288.128, 288.290, 288.310, 288.330, 288.380, and 288.500, RSMo, and to enact in lieu thereof twenty-eight new sections relating to employees, with penalty provisions, an emergency clause and effective dates.

SECTION

- A. Enacting clause.
- 285.300. Withholding form, completion required — forwarding to state agencies — state directory of new hires, cross-check of unemployment compensation recipients — compliance by employers with employees in two or more states.
- 288.030. Definitions — calculation of Missouri average annual wage.
- 288.032. Employer defined, exceptions.
- 288.034. Employment defined.
- 288.036. Wages defined — state taxable wage base.
- 288.038. Weekly benefit amount defined.
- 288.040. Eligibility for benefits — exceptions.
- 288.045. Misconduct connected with the claimant's work, when — controlled substance and blood alcohol content levels — notice — tests conducted, when — violation, penalty — testing provision not to apply, when — specimens for testing — confirmation tests — prescriptions — section not applicable, when — implementation of testing program.
- 288.050. Benefits denied unemployed workers, when — pregnancy, requirements for benefit eligibility.
- 288.060. Benefits, how paid — wage credits — benefits due decedent — benefit warrants canceled, when — electronic funds transfer system, allowed — remote claims filing procedures required, contents, duties.
- 288.090. Contributions required, when — payments in lieu of contributions, procedures — common paymaster arrangements.
- 288.100. Experience rating — employer accounts, credits and charges.
- 288.110. Transfer of employer accounts — successor employer liabilities.

- 288.120. Employer's contribution rate, how determined — exception shared work plan, how computed — surcharges for employers taxed at the maximum rate.
- 288.121. Rate increased when average balance in fund is less than certain amount, how — rate calculations for certain years.
- 288.122. If cash in fund exceeds certain amounts, contribution rate to decrease, amount — table — effective when.
- 288.128. Additional assessment for interest on federal advancements and proceeds of credit instruments, procedure — excess collections, use of — credit instrument and financing agreement repayment surcharge.
- 288.175. Debtor's federal income tax refund may be intercepted — debt defined — debtor defined.
- 288.290. Unemployment compensation fund, established — administration, deposit of funds — purposes — erroneous collection of interest or penalties.
- 288.310. Special employment security fund — use of funds — amounts transferred between funds, when.
- 288.330. State liability for benefits limited, authority for application and repayment of federal advances — board of unemployment fund financing created, duties, requirements, powers — disposition of unobligated funds.
- 288.380. Void agreements — offenses, penalties — deductions of support obligations and uncollected over-issuance of food stamps — offset for overpayment of benefits by other states, when — definitions.
- 288.395. Fraud or misrepresentation, penalties.
- 288.397. Report on summary of changes, division to provide.
- 288.398. Contracts with consumer reporting agencies authorized — information limited — privacy rules apply — written consent, contents — use of information limited, verified by consumer reporting agency — confidentiality safeguards required — noncompliance, liability — information obtained under false pretenses, penalty — disputes.
- 288.500. Shared work program created — definitions — plan, requirements — plan denied, submission of new plan, when — contribution by employer, how computed — benefits.
- 288.501. Missouri state unemployment council created, members, meetings, terms, duties — proposals submitted to division, when access to records — outside study authorized.
- 288.502. Severability clause.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 285.300, 288.030, 288.032, 288.034, 288.036, 288.038, 288.040, 288.050, 288.060, 288.090, 288.100, 288.110, 288.120, 288.121, 288.122, 288.128, 288.290, 288.310, 288.330, 288.380, and 288.500, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 285.300, 288.030, 288.032, 288.034, 288.036, 288.038, 288.040, 288.045, 288.050, 288.060, 288.090, 288.100, 288.110, 288.120, 288.121, 288.122, 288.128, 288.175, 288.290, 288.310, 288.330, 288.380, 288.395, 288.397, 288.398, 288.500, 288.501, and 288.502, to read as follows:

285.300. WITHHOLDING FORM, COMPLETION REQUIRED — FORWARDING TO STATE AGENCIES — STATE DIRECTORY OF NEW HIRES, CROSS-CHECK OF UNEMPLOYMENT COMPENSATION RECIPIENTS — COMPLIANCE BY EMPLOYERS WITH EMPLOYEES IN TWO OR MORE STATES. — 1. Every employer doing business in the state shall require each newly hired employee to fill out a federal W-4 withholding form. A copy of each withholding form or an equivalent form containing data required by section 285.304 which may be provided in an electronic or magnetic format, shall be sent to the department of revenue by the employer within twenty days after the date the employer hires the employee or in the case of an employer transmitting a report magnetically or electronically, by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart. For purposes of this section, the date the employer hires the employee shall be the earlier of the date the employee signs the W-4 form or its equivalent, or the first date the employee reports to work, or performs labor or services. Such forms shall be forwarded by the department of revenue to the division of child support enforcement on a weekly basis and the information shall be entered into the database, to be known as the "State Directory of New Hires". The information reported shall be provided to the National Directory of New Hires established in 42 U.S.C. section 653, other state agencies or contractors of the division as required or allowed by federal statutes or regulations. **The division of employment security shall cross-check Missouri unemployment compensation recipients against any federal new hire database or any other database containing Missouri or other**

states' wage information which is maintained by the federal government on a weekly basis. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government at least weekly. Effective January 1, 2007, the division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

2. Any employer that has employees who are employed in two or more states and transmits reports magnetically or electronically may comply with subsection 1 of this section by:

- (1) Designating one of the states in which the employer has employees as the designated state that such employer shall transmit the reports; and
- (2) Notifying the secretary of Health and Human Services of such designation.

288.030. DEFINITIONS — CALCULATION OF MISSOURI AVERAGE ANNUAL WAGE. — 1. As used in this chapter, unless the context clearly requires otherwise, **the following terms mean:**

(1) "Appeals tribunal" [means], a referee or a body consisting of three referees appointed to conduct hearings and make decisions on appeals from administrative determinations, petitions for reassessment, and claims referred pursuant to subsection 2 of section 288.070;

(2) "Base period" [means], the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(3) "Benefit year" [means], the one-year period beginning with the first day of the first week with respect to which an insured worker first files an initial claim for determination of such worker's insured status, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual, providing the individual is then an insured worker, next files such an initial claim after the end of the individual's last preceding benefit year;

(4) "Benefits" [means], the money payments payable to an insured worker, as provided in this chapter, with respect to such insured worker's unemployment;

(5) "Calendar quarter" [means], the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first;

(6) "Claimant" [means], an individual who has filed an initial claim for determination of such individual's status as an insured worker, a notice of unemployment, a certification for waiting week credit, or a claim for benefits;

(7) "Commission" [means], the labor and industrial relations commission of Missouri;

(8) "Common paymaster" [means], two or more related corporations in which one of the corporations has been designated to disburse remuneration to concurrently employed individuals of any of the related corporations;

(9) "Contributions" [means], the money payments to the unemployment compensation fund required by this chapter, exclusive of interest and penalties;

(10) "Decision" [means], a ruling made by an appeals tribunal or the commission after a hearing;

(11) "Deputy" [means], a representative of the division designated to make investigations and administrative determinations on claims or matters of employer liability or to perform related work;

(12) "Determination" [means], any administrative ruling made by the division without a hearing;

(13) "Director" [means], the administrative head of the division of employment security;

(14) "Division" [means], the division of employment security which administers this chapter;

(15) "Employing unit" [means], any individual, organization, partnership, corporation, common paymaster, or other legal entity, including the legal representatives thereof, which has or, subsequent to June 17, 1937, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be

employed by a single employing unit for all the purposes of this chapter. Each individual engaged to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this chapter, whether such individual was engaged or paid directly by such employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work;

(16) "Employment office" [means], a free public employment office operated by this or any other state as a part of a state controlled system of public employment offices including any location designated by the state as being a part of the one-stop career system;

(17) "Equipment" [means], a motor vehicle, straight truck, tractor, semi-trailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire;

(18) "Fund" [means], the unemployment compensation fund established by this chapter;

(19) "Governmental entity" [means], the state, any political subdivision thereof, any instrumentality of any one or more of the foregoing which is wholly owned by this state and one or more other states or political subdivisions and any instrumentality of this state or any political subdivision thereof and one or more other states or political subdivisions;

(20) "Initial claim" [means], an application, in a form prescribed by the division, made by an individual for the determination of the individual's status as an insured worker;

(21) "Insured work" [means], employment in the service of an employer;

(22) (a) As to initial claims filed after December 31, 1990, "insured worker" [means], a worker who has been paid wages for insured work in the amount of one thousand dollars or more in at least one calendar quarter of such worker's base period and total wages in the worker's base period equal to at least one and one-half times the insured wages in that calendar quarter of the base period in which the worker's insured wages were the highest, or in the alternative, a worker who has been paid wages in at least two calendar quarters of such worker's base period and whose total base period wages are at least one and one-half times the maximum taxable wage base, taxable to any one employer, in accordance with [subdivision (1)] **subsection 2** of section 288.036. For the purposes of this definition, "wages" shall be considered as wage credits with respect to any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has become an employer;

(b) **As to initial claims filed after December 31, 2004, wages for insured work in the amount of one thousand two hundred dollars or more, after December 31, 2005, one thousand three hundred dollars or more, after December 31, 2006, one thousand four hundred dollars or more, after December 31, 2007, one thousand five hundred dollars or more in at least one calendar quarter of such worker's base period and total wages in the worker's base period equal to at least one and one-half times the insured wages in that calendar quarter of the base period in which the worker's insured wages were the highest, or in the alternative, a worker who has been paid wages in at least two calendar quarters of such worker's base period and whose total base period wages are at least one and one-half times the maximum taxable wage base, taxable to any one employer, in accordance with subsection 2 of section 288.036;**

(23) "Lessor", in a lease, [means], the party granting the use of equipment, with or without a driver to another;

(24) "Misconduct", an act of wanton or willful disregard of the employer's interest, a deliberate violation of the employer's rules, a disregard of standards of behavior which the employer has the right to expect of his or her employee, or negligence in such degree or recurrence as to manifest culpability, wrongful intent or evil design, or show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer;

(25) "Referee" [means], a representative of the division designated to serve on an appeals tribunal;

[(25)] (26) "State", includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

[(26)] (27) **"Temporary help firm", a firm that hires its own employees and assigns them to clients to support or supplement the clients' workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;**

(28) **"Temporary employee", an employee assigned to work for the clients of a temporary help firm;**

(29) (a) An individual shall be deemed "totally unemployed" in any week during which the individual performs no services and with respect to which no wages are payable to such individual;

(b) a. An individual shall be deemed "partially unemployed" in any week of less than full-time work if the wages payable to such individual for such week do not equal or exceed the individual's weekly benefit amount plus twenty dollars;

b. **Effective for calendar year 2007 and each year thereafter, an individual shall be deemed "partially unemployed" in any week of less than full-time work if the wages payable to such individual for such week do not equal or exceed the individual's weekly benefit amount plus twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater;**

(c) An individual's "week of unemployment" shall begin the first day of the calendar week in which the individual registers at an employment office except that, if for good cause the individual's registration is delayed, the week of unemployment shall begin the first day of the calendar week in which the individual would have otherwise registered. The requirement of registration may by regulation be postponed or eliminated in respect to claims for partial unemployment or may by regulation be postponed in case of a mass layoff due to a temporary cessation of work;

[(27)] (30) "Waiting week" [means], the first week of unemployment for which a claim is allowed in a benefit year or if no waiting week has occurred in a benefit year in effect on the effective date of a shared work plan, the first week of participation in a shared work unemployment compensation program pursuant to section 288.500.

2. The Missouri average annual wage shall be computed as of June thirtieth of each year, and shall be applicable to the following calendar year. The Missouri average annual wage shall be calculated by dividing the total wages reported as paid for insured work in the preceding calendar year by the average of mid-month employment reported by employers for the same calendar year. The Missouri average weekly wage shall be computed by dividing the Missouri average annual wage as computed in this subsection by fifty-two.

288.032. EMPLOYER DEFINED, EXCEPTIONS. — 1. After December 31, 1977, "employer" means:

(1) Any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars or more except that for the purposes of this definition, wages paid for "agricultural labor" as defined in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and for "domestic services" as defined in subdivisions (2) and [(12)] (13) of subsection 12 of section 288.034 shall not be considered;

(2) Any employing unit which for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual (irrespective of whether the same individual was in employment in each such day); except that for the purposes of this definition, services performed in "agricultural labor" as defined in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and in "domestic services" as defined in subdivisions (2) and [(12)] (13) of subsection 12 of section 288.034 shall not be considered;

(3) Any governmental entity for which service in employment as defined in subsection 7 of section 288.034 is performed;

(4) Any employing unit for which service in employment as defined in subsection 8 of section 288.034 is performed during the current or preceding calendar year;

(5) Any employing unit for which service in employment as defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 is performed during the current or preceding calendar year;

(6) Any employing unit for which service in employment as defined in subsection 13 of section 288.034 is performed during the current or preceding calendar year;

(7) Any individual, type of organization or employing unit which has been determined to be a successor pursuant to section 288.110;

(8) Any individual, type of organization or employing unit which has elected to become subject to this law pursuant to subdivision (1) of subsection 3 of section 288.080;

(9) Any individual, type of organization or employing unit which, having become an employer, has not pursuant to section 288.080 ceased to be an employer;

(10) Any employing unit subject to the Federal Unemployment Tax Act or which, as a condition for approval of this law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an employer pursuant to this law.

2. (1) Notwithstanding any other provisions of this law, any employer, individual, organization, partnership, corporation, other legal entity or employing unit that meets the definition of "lessor employing unit", as defined in subdivision (5) of this subsection, shall be liable for contributions on wages paid by the lessor employing unit to individuals performing services for client lessees of the lessor employing unit. Unless the lessor employing unit has timely complied with the provisions of subdivision (3) of this subsection, any employer, individual, organization, partnership, corporation, other legal entity or employing unit which is leasing individuals from any lessor employing unit shall be jointly and severally liable for any unpaid contributions, interest and penalties due pursuant to this law from any lessor employing unit attributable to wages for services performed for the client lessee entity by individuals leased to the client lessee entity, and the lessor employing unit shall keep separate records and submit separate quarterly contribution and wage reports for each of its client lessee entities. Delinquent contributions, interest and penalties shall be collected in accordance with the provisions of this chapter.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, any governmental entity or nonprofit organization that meets the definition of "lessor employing unit", as defined in subdivision (5) of this subsection, and has elected to become liable for payments in lieu of contributions as provided in subsection 3 of section 288.090, shall pay the division payments in lieu of contributions, interest, penalties and surcharges in accordance with section 288.090 on benefits paid to individuals performing services for the client lessees of the lessor employing unit. If the lessor employing unit has not timely complied with the provisions of subdivision (3) of this subsection, any client lessees with services attributable to and performed for the client lessees shall be jointly and severally liable for any unpaid payments in lieu of contributions, interest, penalties and surcharges due pursuant to this law. The lessor employing unit shall keep separate records and submit separate quarterly contribution and wage reports for each of its client lessees. Delinquent payments in lieu of contributions, interest, penalties and surcharges shall be collected in accordance with subsection 3 of section 288.090. The election to be liable for payments in lieu of contributions made by a governmental entity or nonprofit organization meeting the definition of "lessor employing unit", may be terminated by the division in accordance with subsection 3 of section 288.090.

(3) In order to relieve a client lessees from joint and several liability and the separate reporting requirements imposed pursuant to this subsection, any lessor employing unit may post and maintain a surety bond issued by a corporate surety authorized to do business in Missouri

in an amount equivalent to the contributions or payments in lieu of contributions for which the lessor employing unit was liable in the last calendar year in which he or she accrued contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever amount is the greater, to ensure prompt payment of contributions or payments in lieu of contributions, interest, penalties and surcharges for which the lessor employing unit may be, or becomes, liable pursuant to this law. In lieu of a surety bond, the lessor employing unit may deposit in a depository designated by the director, securities with marketable value equivalent to the amount required for a surety bond. The securities so deposited shall include authorization to the director to sell any securities in an amount sufficient to pay any contributions or payments in lieu of contributions, interest, penalties and surcharges which the lessor employing unit fails to promptly pay when due. In lieu of a surety bond or securities as described in this subdivision, any lessor employing unit may provide the director with an irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any state or federally chartered financial institution, in an amount equivalent to the amount required for a surety bond as described in this subdivision. In lieu of a surety bond, securities or an irrevocable letter of credit, a lessor employing unit may obtain a certificate of deposit issued by any state or federally chartered financial institution, in an amount equivalent to the amount required for a surety bond as described in this subdivision. The certificate of deposit shall be pledged to the director until release by the director. As used in this subdivision, the term "certificate of deposit" means a certificate representing any deposit of funds in a state or federally chartered financial institution for a specified period of time which earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a specified time without forfeiture of some or all of the earned interest.

(4) Any lessor employing unit which is currently engaged in the business of leasing individuals to client lessees shall comply with the provisions of subdivision (3) of this subsection by September 28, 1992. Lessor employing units not currently engaged in the business of leasing individuals to client lessees shall comply with subdivision (3) of this subsection before entering into a written lease agreement with client lessees.

(5) As used in this subsection, the term "lessor employing unit" means an independently established business entity, governmental entity as defined in subsection 1 of section 288.030 or nonprofit organization as defined in subsection 3 of section 288.090 which, pursuant to a written lease agreement between the lessor employing unit and the client lessees, engages in the business of providing individuals to any other employer, individual, organization, partnership, corporation, other legal entity or employing unit referred to in this subsection as a client lessee.

(6) The provisions of this subsection shall not be applicable to private employment agencies who provide their employees to employers on a temporary help basis provided the private employment agencies are liable as employers for the payment of contributions on wages paid to temporary workers so employed.

3. After September 30, 1986, notwithstanding any provision of section 288.034, for the purpose of this law, in no event shall a for-hire motor carrier as regulated by the Missouri division of motor carrier and railroad safety or whose operations are confined to a commercial zone be determined to be the employer of a lessor as defined in section 288.030 or of a driver receiving remuneration from a lessor, provided, however, the term "for-hire motor carrier" shall in no event include an organization described in section 501(c)(3) of the Internal Revenue Code or any governmental entity.

4. The owner or operator of a beauty salon or similar establishment shall not be determined to be the employer of a person who utilizes the facilities of the owner or operator but who receives neither salary, wages or other compensation from the owner or operator and who pays the owner or operator rent or other payments for the use of the facilities.

288.034. EMPLOYMENT DEFINED. — 1. "Employment" means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied, and notwithstanding any other provisions of this section, service with respect

to which a tax is required to be paid under any federal unemployment tax law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which, as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required to be covered under this law.

2. The term "employment" shall include an individual's entire service, performed within or both within and without this state if:

- (1) The service is localized in this state; or
- (2) The service is not localized in any state but some of the service is performed in this state and the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

3. Service performed by an individual for wages shall be deemed to be employment subject to this law:

- (1) If covered by an election filed and approved pursuant to subdivision (2) of subsection 3 of section 288.080;
- (2) If covered by an arrangement pursuant to section 288.340 between the division and the agency charged with the administration of any other state or federal unemployment insurance law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within this state.

4. Service shall be deemed to be localized within a state if the service is performed entirely within such state; or the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

5. Service performed by an individual for remuneration shall be deemed to be employment subject to this law unless it is shown to the satisfaction of the division that such services were performed by an independent contractor. In determining the existence of the independent contractor relationship, the common law of agency right to control shall be applied. The common law of agency right to control test shall include but not be limited to: if the alleged employer retains the right to control the manner and means by which the results are to be accomplished, the individual who performs the service is an employee. If only the results are controlled, the individual performing the service is an independent contractor.

6. The term "employment" shall include service performed for wages as an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his or her principal; or as a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations, provided:

- (1) The contract of service contemplates that substantially all of the services are to be performed personally by such individual; and
- (2) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and
- (3) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

7. Service performed by an individual in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof, and one or more other states or political subdivisions, provided that such service is excluded from

"employment" as defined in the Federal Unemployment Tax Act by Section 3306(c)(7) of that act and is not excluded from "employment" pursuant to subsection 9 of this section, shall be "employment" subject to this law.

8. Service performed by an individual in the employ of a corporation or any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, or other organization described in Section 501(c)(3) of the Internal Revenue Code which is exempt from income tax under Section 501(a) of that code if the organization had four or more individuals in employment for some portion of a day in each of twenty different weeks whether or not such weeks were consecutive within a calendar year regardless of whether they were employed at the same moment of time shall be "employment" subject to this law.

9. For the purposes of subsections 7 and 8 of this section, the term "employment" does not apply to service performed:

(1) In the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of such minister's ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) In the employ of a governmental entity referred to in subdivision (3) of subsection 1 of section 288.032 if such service is performed by an individual in the exercise of duties:

(a) As an elected official;

(b) As a member of a legislative body, or a member of the judiciary, of a state or political subdivision;

(c) As a member of the state national guard or air national guard;

(d) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency;

(e) In a position which, under or pursuant to the laws of this state, is designated as (i) a major nontenured policy-making or advisory position, or (ii) a policy-making or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week; or

(4) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(5) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

(6) By an inmate of a custodial or penal institution; or

(7) In the employ of a school, college, or university, if such service is performed (i) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (I) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (II) such employment will not be covered by any program of unemployment insurance.

10. The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada), if:

(1) The employer's principal place of business in the United States is located in this state;
or

(2) The employer has no place of business in the United States, but:

(a) The employer is an individual who is a resident of this state; or

(b) The employer is a corporation which is organized under the laws of this state; or

(c) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(3) None of the criteria of subdivisions (1) and (2) of this subsection is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state;

(4) As used in this subsection and in subsection 11 of this section, the term "United States" includes the states, the District of Columbia and the Commonwealth of Puerto Rico.

11. An "American employer", for the purposes of subsection 10 of this section, means a person who is:

(1) An individual who is a resident of the United States; or

(2) A partnership, if two-thirds or more of the partners are residents of the United States;

or

(3) A trust, if all of the trustees are residents of the United States; or

(4) A corporation organized under the laws of the United States or of any state.

12. The term "employment" shall not include:

(1) Service performed by an individual in agricultural labor;

(a) For the purposes of this subdivision, the term "agricultural labor" means remunerated service performed:

a. On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

b. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

c. In connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Federal Agricultural Marketing Act, as amended (46 Stat. 1550, Sec. 3; 12 U.S.C. 1441j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

d. i. In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;

ii. In the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of services described in item i of this subparagraph, but only if such operators produced more than one-half of the commodity with respect to which such service is performed;

iii. The provisions of items i and ii of this subparagraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

e. On a farm operated for profit if such service is not in the course of the employer's trade or business. As used in this paragraph, the term "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures, used primarily for the raising of agricultural or horticultural commodities, and orchards;

(b) The term "employment" shall include service performed after December 31, 1977, by an individual in agricultural labor as defined in paragraph (a) of this subdivision when such service is performed for a person who, during any calendar quarter, paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor or for some portion of a day in a calendar year in each of twenty different calendar weeks, whether or not such weeks were consecutive, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time;

(c) For the purposes of this subsection any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be considered as employed by such crew leader:

a. If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

b. If such individual is not in employment by such other person;

c. If any individual is furnished by a crew leader to perform service in agricultural labor for any other person and that individual is not in the employment of the crew leader:

i. Such other person and not the crew leader shall be treated as the employer of such individual; and

ii. Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his or her own behalf or on behalf of such other person) for the service in agricultural labor performed for such other person;

d. For the purposes of this subsection, the term "crew leader" means an individual who:

i. Furnishes individuals to perform service in agricultural labor for any other person;

ii. Pays (either on his or her own behalf or on behalf of such other person) the individuals so furnished by him or her for the service in agricultural labor performed by them; and

iii. Has not entered into a written agreement with such other person under which such individual is designated as in employment by such other person;

(2) Domestic service in a private home except as provided in subsection 13 of this section;

(3) Service performed by an individual under the age of eighteen years in the delivery or distribution of newspapers or shopping news but shall not include delivery or distribution to any point for subsequent delivery or distribution;

(4) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

(5) Service performed by an individual in the employ of his or her son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his or her father or mother;

(6) Except as otherwise provided in this law, service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty

to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(7) Services with respect to which unemployment insurance is payable under an unemployment insurance system established by an act of Congress;

(8) Service performed in the employ of a foreign government;

(9) Service performed in the employ of an instrumentality wholly owned by a foreign government:

(a) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

(b) If the division finds that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof. The certification of the United States Secretary of State to the United States Secretary of Treasury shall constitute prima facie evidence of such equivalent exemption;

(10) Service covered by an arrangement between the division and the agency charged with the administration of any other state or federal unemployment insurance law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's approved election are deemed to be performed entirely within the jurisdiction of such other state or federal agency;

(11) Service performed in any calendar quarter in the employ of a school, college or university not otherwise excluded, if such service is performed by a student who is enrolled and regularly attending classes at such school, college, or university, and the remuneration for such service does not exceed fifty dollars (exclusive of board, room, and tuition);

(12) Service performed by an individual for a person as a licensed insurance agent, a licensed insurance broker, or an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commissions;

(13) Domestic service performed in the employ of a local college club or of a local chapter of a college fraternity or sorority, except as provided in subsection 13 of this section;

(14) Services performed after March 31, 1982, in programs authorized and funded by the Comprehensive Employment and Training Act by participants of such programs, except those programs with respect to which unemployment insurance coverage is required by the Comprehensive Employment and Training Act or regulations issued pursuant thereto;

(15) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer; except, that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(16) Services performed by a licensed real estate salesperson or licensed real estate broker if at least eighty percent of the remuneration, whether or not paid in cash, for the services performed rather than to the number of hours worked is directly related to sales performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes;

(17) Services performed as a direct seller who is engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business, or services performed as a direct seller who is engaged in the trade or business of selling, or soliciting the sale of, consumer products in the home or otherwise than in, or affiliated with, a permanent, fixed retail establishment, if eighty percent or more of the remuneration, whether or not paid in cash, for the services performed rather than the number of

hours worked is directly related to sales performed pursuant to a written contract between such direct seller and the person for whom the services are performed, and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes;

(18) Services performed as a volunteer research subject who is paid on a per study basis for scientific, medical or drug-related testing for any organization other than one described in Section 501(c)(3) of the Internal Revenue Code or any governmental entity.

13. The term "employment" shall include domestic service as defined in subdivisions (2) and [(12)] (13) of subsection 12 of this section performed after December 31, 1977, if the employing unit for which such service is performed paid cash wages of one thousand dollars or more for such services in any calendar quarter after December 31, 1977.

14. The term "employment" shall include or exclude the entire service of an individual for an employing unit during a pay period in which such individual's services are not all excluded under the foregoing provisions, on the following basis: if the services performed during one-half or more of any pay period constitute employment as otherwise defined in this law, all the services performed during such period shall be deemed to be employment; but if the services performed during more than one-half of any such pay period do not constitute employment as otherwise defined in this law, then none of the services for such period shall be deemed to be employment. (As used in this subsection, the term "pay period" means a period of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit employing such individual.) This subsection shall not be applicable with respect to service performed in a pay period where any such service is excluded pursuant to subdivision [(7)] (8) of subsection 12 of this section.

15. The term "employment" shall not include the services of a full-time student who performed such services in the employ of an organized summer camp for less than thirteen calendar weeks in such calendar year.

16. For the purpose of subsection 15 of this section, an individual shall be treated as a full-time student for any period:

(1) During which the individual is enrolled as a full-time student at an educational institution; or

(2) Which is between academic years or terms if:

(a) The individual was enrolled as a full-time student at an educational institution for the immediately preceding academic year or term; and

(b) There is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in paragraph (a) of this subdivision.

17. For the purpose of subsection 15 of this section, an "organized summer camp" shall mean a summer camp which:

(1) Did not operate for more than seven months in the calendar year and did not operate for more than seven months in the preceding calendar year; or

(2) Had average gross receipts for any six months in the preceding calendar year which were not more than thirty-three and one-third percent of its average gross receipts for the other six months in the preceding calendar year.

18. The term "employment" shall not mean service performed by a remodeling salesperson acting as an independent contractor; however, if the federal Internal Revenue Service determines that a contractual relationship between a direct provider and an individual acting as an independent contractor pursuant to the provisions of this subsection is in fact an employer-employee relationship for the purposes of federal law, then that relationship shall be considered as an employer-employee relationship for the purposes of this chapter.

288.036. WAGES DEFINED — STATE TAXABLE WAGE BASE. — 1. "Wages" means all remuneration, payable or paid, for personal services including commissions and bonuses and,

except as provided in subdivision [(8)] (7) of this section, the cash value of all remuneration paid in any medium other than cash. Gratuities, including tips received from persons other than the employing unit, shall be considered wages only if required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the purposes of this chapter, treated as having been paid by the employing unit. Severance pay shall be considered as wages to the extent required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b). Vacation pay and holiday pay shall be considered as wages for the week with respect to which it is payable. The term "wages" shall not include:

(1) [For the purposes of determining the amount of contributions due and contribution rates, that part of the remuneration for employment paid to an individual by an employer or the employer's predecessors which is in excess of seven thousand dollars for the calendar years 1988 through 1992, seven thousand five hundred dollars for the calendar year 1993, eight thousand five hundred dollars for the calendar years 1994, 1995 and 1996, eight thousand dollars for calendar year 1997, and eight thousand five hundred dollars for the calendar year 1998, and the state taxable wage base as determined in subsection 2 of this section for calendar year 1999, and each calendar year thereafter, unless that part of the remuneration is subject to a tax pursuant to a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund; except that:

(a) In addition to the taxable wage, as defined in this subdivision, if on December 31, 1995, or on any December thirty-first thereafter, the balance in the unemployment insurance trust fund, less any federal advances, is less than one hundred million dollars, then the amount of the taxable wage then in effect shall be increased by five hundred dollars for all succeeding calendar years;

(b) If on December 31, 1995, or any December thirty-first thereafter, the balance in the unemployment insurance trust fund, less any federal advances, is two hundred and fifty million dollars or more, then the amount of the taxable wage then in effect shall be reduced by five hundred dollars, but not below that part of the remuneration which is subject to a tax pursuant to a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2)] The amount of any payment made (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of, an individual under a plan or system established by an employing unit which makes provision generally for individuals performing services for it or for a class or classes of such individuals, on account of:

(a) Sickness or accident disability, but in case of payments made to an employee or any of the employee's dependents this paragraph shall exclude from the term "wages" only payments which are received pursuant to a workers' compensation law; or

(b) Medical and hospitalization expenses in connection with sickness or accident disability; or

(c) Death;

[(3)] (2) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employing unit to, or on behalf of, an individual performing services for it after the expiration of six calendar months following the last calendar month in which the individual performed services for such employing unit;

[(4)] (3) The amount of any payment made by an employing unit to, or on behalf of, an individual performing services for it or his or her beneficiary:

(a) From or to a trust described in 26 U.S.C. 401(a) which is exempt from tax pursuant to 26 U.S.C. 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such an employee and not as a beneficiary of the trust; or

(b) Under or to an annuity plan which, at the time of such payments, meets the requirements of section 404(a)(2) of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 404);

[(5)] (4) The amount of any payment made by an employing unit (without deduction from the remuneration of the individual in employment) of the tax imposed pursuant to section 3101 of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an individual with respect to remuneration paid to an employee for domestic service in a private home or for agricultural labor;

[(6)] (5) Remuneration paid in any medium other than cash to an individual for services not in the course of the employing unit's trade or business;

[(7)] (6) Remuneration paid in the form of meals provided to an individual in the service of an employing unit where such remuneration is furnished on the employer's premises and at the employer's convenience, except that remuneration in the form of meals that is considered wages and required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306 shall be reported as wages as required thereunder;

[(8)] (7) For the purpose of determining wages paid for agricultural labor as defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as defined in subsection 13 of section 288.034, only cash wages paid shall be considered;

[(9)] (8) Beginning on October 1, 1996, any payment to, or on behalf of, an employee or the employee's beneficiary under a cafeteria plan, if such payment would not be treated as wages pursuant to the Federal Unemployment Tax Act.

2. The increases or decreases to the state taxable wage base for **the remainder of** calendar year [1999] **2004 shall be eight thousand dollars, and the state taxable wage base in calendar year 2005**, and each calendar year thereafter, shall be determined by the provisions within this subsection. **On January 1, 2005**, the state taxable wage base for calendar year [1999, and] **2005, 2006, and 2007 shall be eleven thousand dollars. The taxable wage base for calendar year 2008, and each year thereafter, shall be twelve thousand dollars. The state taxable wage base for each calendar year thereafter[,] shall be determined by the preceding September thirtieth balance of the unemployment compensation trust fund, less any outstanding federal Title XII advances received pursuant to section 288.330, or if the fund is not utilizing moneys advanced by the federal government, then less the principal, interest, and administrative expenses related to credit instruments issued under section 288.330, or the principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the principal, interest, and administrative expenses related to a combination of Title XII advances, credit instruments, and financial agreements. When the September thirtieth unemployment compensation trust fund balance, or, if the average balance, less any federal advances of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the preceding calendar year) is less any outstanding federal Title XII advances received pursuant to section 288.330, is:**

(1) Less than, or equal to, three hundred **fifty** million dollars, then the wage base shall increase by [five hundred] **one thousand** dollars; or

(2) [Four] **Six** hundred fifty million or more, then the state taxable wage base for the subsequent calendar year shall be decreased by five hundred dollars. In no event, however, shall the state taxable wage base increase beyond [ten] **twelve** thousand [five hundred] dollars, or decrease to less than seven thousand dollars. **For calendar year 2009, the tax wage base shall be twelve thousand five hundred dollars. For calendar year 2010 and each calendar year thereafter, in no event shall the state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than seven thousand dollars.**

For any calendar year, the state taxable wage base shall not be reduced to less than that part of the remuneration which is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation trust fund. **Nothing in this section shall be construed to prevent the wage base from increasing or decreasing by increments of five hundred dollars.**

288.038. WEEKLY BENEFIT AMOUNT DEFINED. — With respect to initial claims filed during calendar years [1998, 1999, 2000 and 2001 and each calendar year thereafter] **2004 and 2005**, the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible insured worker during that quarter of the worker's base period in which the worker's wages were the highest, but the maximum weekly benefit amount shall not exceed [two hundred five dollars in the calendar year 1998, two hundred twenty dollars in the calendar year 1999, two hundred thirty-five dollars in the calendar year 2000, and] two hundred fifty dollars in the calendar [year 2001, and each calendar year thereafter] **years 2004 and 2005. With respect to initial claims filed during calendar years 2006 and 2007 the "maximum weekly benefit amount" means three and three-fourths percent of the total wages paid to an eligible insured worker during that quarter of the worker's base period in which the worker's wages were the highest, but the maximum weekly benefit amount shall not exceed two hundred seventy dollars in calendar year 2006 and the maximum weekly benefit amount shall not exceed two hundred eighty dollars in calendar year 2007. With respect to initial claims filed during calendar year 2008 and each calendar year thereafter, the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible insured worker during the average of the two highest quarters of the worker's base period, but the maximum weekly benefit amount shall not exceed three hundred dollars in calendar year 2008, three hundred ten dollars in calendar year 2009, three hundred twenty dollars in calendar year 2010, and each calendar year thereafter.** If such benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount.

288.040. ELIGIBILITY FOR BENEFITS — EXCEPTIONS. — 1. A claimant who is unemployed and has been determined to be an insured worker shall be eligible for benefits for any week only if the deputy finds that:

(1) The claimant has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the division may prescribe;

(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended); [or]

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; however, upon application of the employer responsible for the claimant's unemployment, such eight-week period may be extended **not to exceed a total of sixteen weeks** at the discretion of the director;

(3) The claimant has reported in person to an office of the division as directed by the deputy, but at least once every four weeks, except that a claimant shall be exempted from the reporting requirement of this subdivision if:

(a) The claimant is claiming benefits in accordance with division regulations dealing with partial or temporary total unemployment; or

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; or

(c) The claimant resides in a county with an unemployment rate, as published by the division, of ten percent or more and in which the county seat is more than forty miles from the nearest division office;

(d) The director of the division of employment security has determined that the claimant belongs to a group or class of workers whose opportunities for reemployment will not be enhanced by reporting in person, or is prevented from reporting due to emergency conditions that limit access by the general public to an office that serves the area where the claimant resides, but only during the time such circumstances exist.

Ineligibility pursuant to this subdivision shall begin on the first day of the week which the claimant was scheduled to claim and shall end on the last day of the week preceding the week during which the claimant does report in person to the division's office;

(4) Prior to the first week of a period of total or partial unemployment for which the claimant claims benefits he **or she** has been totally or partially unemployed for a waiting period of one week. No more than one waiting week will be required in any benefit year. [The one-week waiting period shall become compensable after unemployment during which benefits are payable for nine consecutive weeks.] **During calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable once his or her remaining balance on the claim is equal to or less than the compensable amount for the waiting period.** No week shall be counted as a week of total or partial unemployment for the purposes of this subsection unless it occurs within the benefit year which includes the week with respect to which the claimant claims benefits;

(5) The claimant has made a claim for benefits;

(6) The claimant is participating in reemployment services, such as job search assistance services, as directed by the deputy if the claimant has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the division, unless the deputy determines that:

(a) The individual has completed such reemployment services; or

(b) There is justifiable cause for the claimant's failure to participate in such reemployment services.

2. A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds he or she is or has been suspended by his or her most recent employer for misconduct connected with his or her work. **Suspensions of four weeks or more shall be treated as discharges.**

3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of section 288.034, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this law; except that:

(a) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) With respect to services performed in any capacity (other than instructional, research, or principal administrative capacity) for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform such services in the second of such academic years or terms;

(c) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performed such services in the period immediately before such vacation period or holiday recess,

and there is reasonable assurance that such individual will perform such services immediately following such vacation period or holiday recess;

(d) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits payable on the basis of services in any such capacity shall be denied as specified in paragraphs (a), (b), and (c) of this subdivision, to any individual who performed such services at an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision (1) of this subsection, to any individual performing services at an educational institution in any capacity (other than instructional, research or principal administrative capacity), and such individual was not offered an opportunity to perform such services for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work benefits for any week for which he or she is receiving or has received remuneration exceeding his or her weekly benefit amount or shared work benefit amount in the form of:

(a) Compensation for temporary partial disability pursuant to the workers' compensation law of any state or pursuant to a similar law of the United States;

(b) A governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such claimant to the extent that such payment is provided from funds provided by a base period or chargeable employer pursuant to a plan maintained or contributed to by such employer; but, except for such payments made pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), the provisions of this paragraph shall not apply if the services performed for such employer by the claimant after the beginning of the base period (or remuneration for such services) do not affect eligibility for or increase the amount of such pension, retirement or retired pay, annuity or similar payment.

(2) If the remuneration referred to in this subsection is less than the benefits which would otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one dollar, such amount shall be lowered to the next multiple of one dollar.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant to such federal law shall be deductible from the amount of benefits received pursuant to this chapter.

5. A claimant shall be ineligible for waiting week credit or benefits for any week for which or a part of which he or she has received or is seeking unemployment benefits pursuant to an unemployment insurance law of another state or the United States; provided, that if it be finally determined that the claimant is not entitled to such unemployment benefits, such ineligibility shall not apply.

6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds that such claimant's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute in the factory, establishment or other premises in which such claimant is or was last employed. In the event the claimant secures other employment from which he or she is separated during the existence of the labor dispute, the claimant must have obtained bona fide employment as a permanent employee for at least the major part of each of two weeks in such subsequent employment to terminate his or her ineligibility. If, in any case, separate branches of work which are commonly conducted as

separate businesses at separate premises are conducted in separate departments of the same premises, each such department shall for the purposes of this subsection be deemed to be a separate factory, establishment or other premises. This subsection shall not apply if it is shown to the satisfaction of the deputy that:

(a) The claimant is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The claimant does not belong to a grade or class of workers of which, immediately preceding the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) "Stoppage of work" as used in this subsection means a substantial diminution of the activities, production or services at the establishment, plant, factory or premises of the employing unit. This definition shall not apply to a strike where the employees in the bargaining unit who initiated the strike are participating in the strike. Such employees shall not be eligible for waiting week credit or benefits during the period when the strike is in effect, regardless of diminution, unless the employer has been found guilty of an unfair labor practice by the National Labor Relations Board or a federal court of law for an act or actions preceding or during the strike.

7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

8. Benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

288.045. MISCONDUCT CONNECTED WITH THE CLAIMANT'S WORK, WHEN — CONTROLLED SUBSTANCE AND BLOOD ALCOHOL CONTENT LEVELS — NOTICE — TESTS CONDUCTED, WHEN — VIOLATION, PENALTY — TESTING PROVISION NOT TO APPLY, WHEN — SPECIMENS FOR TESTING — CONFIRMATION TESTS — PRESCRIPTIONS — SECTION NOT APPLICABLE, WHEN — IMPLEMENTATION OF TESTING PROGRAM. — 1. If a claimant is at work with a detectible amount of alcohol or a controlled substance as defined in section 195.010, RSMo, in the claimant's system, in violation of the employer's alcohol and controlled substance workplace policy, the claimant shall have committed misconduct connected with the claimant's work.

2. For carboxy-tetrahydrocannabinol, a chemical test result of fifty nannograms per milliliter or more shall be considered a detectible amount. For alcohol, a blood alcohol content of eight-hundredths of one percent or more by weight of alcohol in the claimant's blood shall be considered a detectible amount.

3. If the test is conducted by a laboratory certified by the United States Department of Transportation, the test results and the laboratory's trial packet shall be included in the administrative record and considered as evidence.

4. For this section to be applicable, the claimant must have previously been notified of the employer's alcohol and controlled substance workplace policy by conspicuously posting the policy in the workplace, by including the policy in a written personnel policy or handbook, or by statement of such policy in a collective bargaining agreement governing employment of the employee. The policy must state that a positive test result shall be deemed misconduct and may result in suspension or termination of employment.

5. For this section to be applicable, testing shall be conducted only if sufficient cause exists to suspect alcohol or controlled substance use by the claimant. If sufficient cause exists to suspect prior alcohol or controlled substance use by the claimant, or the employer's policy clearly states that there will be random testing, then testing of the claimant may be conducted randomly.

6. Notwithstanding any provision of this chapter to the contrary, any claimant found to be in violation of this section shall be subject to the cancellation of all or part of the claimants wage credits as provided by subdivision (2) of subsection 2 of section 288.050.

7. The application of the alcohol and controlled substance testing provisions of this section shall not apply in the event that the claimant is subject to the provisions of any applicable collective bargaining agreement, which contains methods for alcohol or controlled substance testing. Nothing in this chapter is intended to authorize any employer to test any applicant or employee for alcohol or drugs in any manner inconsistent with Missouri or United States constitution, law, statute or regulation, including those imposed by the Americans with Disabilities Act and the National Labor Relations Act.

8. All specimen collection and testing for drugs and alcohol under this chapter shall be performed in accordance with the procedures provided for by the United States Department of Transportation rules for workplace drug and alcohol testing compiled at 49 C.F.R., Part 40. Any employer that performs drug testing or specimen collection shall use chain-of-custody procedures established by regulations of the United States Department of Transportation. "Specimen" means tissue, fluid, or a product of the human body capable of revealing the presence of alcohol or drugs or their metabolites. "Chain of custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances, and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.

9. For this section to be applicable, the employee may request that a confirmation test on the specimen be conducted. "Confirmation test" means a second analytical procedure used to identify the presence of a specific drug or alcohol or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity and quantitative accuracy. In the event that a confirmation test is requested, such shall be obtained from a separate, unrelated certified laboratory and shall be at the employee's expense only if said test confirms results as specified in subsection 2 of section 288.045.

10. Use of a controlled substance as defined under section 195.010, RSMo, under and in conformity with the lawful order of a healthcare practitioner, shall not be deemed to be misconduct connected with work for the purposes of this section.

11. This section shall have no effect on employers who do not avail themselves of the requirements and regulations for alcohol and controlled drug testing determinations that are required to affirm misconduct connected with work findings.

12. Any employer that initiates an alcohol and drug testing policy after January 1, 2005, shall ensure that at least sixty days elapse between a general one-time notice to all employees that an alcohol and drug testing workplace policy is being implemented and the effective date of the program.

13. (1) In applying provisions of this chapter, it is the intent of the legislature to reject and abrogate previous case law interpretations of "misconduct connected with work"

requiring a finding of evidence of impairment of work performance, including, but not limited to, the holdings contained in *Baldor Electric Company v. Raylene Reasoner and Missouri Division of Employment Security*, 66 S.W.3d 130 (Mo.App. E.D. 2001).

(2) In determining whether or not misconduct connected with work has occurred, neither the state, any agency of the state, nor any court of the state of Missouri shall require a finding of evidence of impairment of work performance.

14. Notwithstanding any provision of this chapter to the contrary, any claimant found to be in violation of this section shall be subject to the cancellation of all or part of the claimants wage credits as provided by subdivision (2) of subsection 2 of section 288.050.

288.050. BENEFITS DENIED UNEMPLOYED WORKERS, WHEN — PREGNANCY, REQUIREMENTS FOR BENEFIT ELIGIBILITY. — 1. Notwithstanding the other provisions of this law, a claimant shall be disqualified for waiting week credit or benefits until after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state equal to ten times the claimant's weekly benefit amount if the deputy finds:

(1) That the claimant has left work voluntarily without good cause attributable to such work or to the claimant's employer[; except that]. **A temporary employee of a temporary help firm will be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact the firm upon completion of assignments and that unemployment benefits may be denied for failure to do so.** The claimant shall not be disqualified:

(a) If the deputy finds the claimant quit such work for the purpose of accepting a more remunerative job which the claimant did accept and earn some wages therein;

(b) If the claimant quit temporary work to return to such claimant's regular employer; or

(c) If the deputy finds the individual quit work, which would have been determined not suitable in accordance with paragraphs (a) and (b) of subdivision (3) of this subsection, within twenty-eight calendar days of the first day worked;

(d) As to initial claims filed after December 31, 1988, if the claimant presents evidence supported by competent medical proof that she was forced to leave her work because of pregnancy, notified her employer of such necessity as soon as practical under the circumstances, and returned to that employer and offered her services to that employer as soon as she was physically able to return to work, as certified by a licensed and practicing physician, but in no event later than ninety days after the termination of the pregnancy. An employee shall have been employed for at least one year with the same employer before she may be provided benefits pursuant to the provisions of this paragraph;

(2) That the claimant has retired pursuant to the terms of a labor agreement between the claimant's employer and a union duly elected by the employees as their official representative or in accordance with an established policy of the claimant's employer; or

(3) That the claimant failed without good cause either to apply for available suitable work when so directed by the deputy, or to accept suitable work when offered the claimant, either through the division or directly by an employer by whom the individual was formerly employed, or to return to the individual's customary self-employment, if any, when so directed by the deputy. **An offer of work shall be rebuttably presumed if an employer notifies the claimant in writing of such offer by sending an acknowledgment via any form of certified mail issued by the United States Postal Service stating such offer to the claimant at the claimant's last known address. Nothing in this subdivision shall be construed to limit the means by which the deputy may establish that the claimant has or has not been sufficiently notified of available work.**

(a) In determining whether or not any work is suitable for an individual, the division shall consider, among other factors and in addition to those enumerated in paragraph (b) of this subdivision, the degree of risk involved to the individual's health, safety and morals, the individual's physical fitness and prior training, the individual's experience and prior earnings, the individual's length of unemployment, the individual's prospects for securing work in the individual's customary occupation, the distance of available work from the individual's residence and the individual's prospect of obtaining local work; except that, if an individual has moved from the locality in which the individual actually resided when such individual was last employed to a place where there is less probability of the individual's employment at such individual's usual type of work and which is more distant from or otherwise less accessible to the community in which the individual was last employed, work offered by the individual's most recent employer if similar to that which such individual performed in such individual's last employment and at wages, hours, and working conditions which are substantially similar to those prevailing for similar work in such community, or any work which the individual is capable of performing at the wages prevailing for such work in the locality to which the individual has moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable for the individual;

(b) Notwithstanding any other provisions of this law, no work shall be deemed suitable and benefits shall not be denied pursuant to this law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- b. If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- c. If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

2. [Notwithstanding the other provisions of this law,] If a deputy finds that a claimant has been discharged for misconduct connected with the claimant's work, such claimant[, depending upon the seriousness of the misconduct as determined by the deputy according to the circumstances in each case,] shall be disqualified for waiting week credit [or] **and** benefits [for not less than four nor more than sixteen weeks for which the claimant claims benefits and is otherwise eligible], **and no benefits shall be paid nor shall the cost of any benefits be charged against any employer for any period of employment within the base period until the claimant has earned wages for work insured under the unemployment laws of this state or any other state as prescribed in this section.** In addition to the disqualification for benefits pursuant to this provision the division may in the more aggravated cases of misconduct, cancel all or any part of the individual's wage credits, which were established through the individual's employment by the employer who discharged such individual, according to the seriousness of the misconduct. A disqualification provided for pursuant to this subsection shall not apply to any week which occurs after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state in an amount equal to [eight] **six** times the claimant's weekly benefit amount.

3. [A pattern of] Absenteeism or tardiness may constitute misconduct regardless of whether the last incident alone [which results in the discharge] constitutes misconduct. **In determining whether the degree of absenteeism or tardiness constitutes a pattern for which misconduct may be found, the division shall consider whether the discharge was the result of a violation of the employer's attendance policy, provided the employee had received knowledge of such policy prior to the occurrence of any absence or tardy upon which the discharge is based.**

4. Notwithstanding the provisions of subsection 1 of this section, a claimant may not be determined to be disqualified for benefits because the claimant is in training approved pursuant to section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or because the claimant left work which was not "suitable employment" to enter such training. For

the purposes of this subsection "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than eighty percent of the worker's average weekly wage as determined for the purposes of the Trade Act of 1974.

288.060. BENEFITS, HOW PAID — WAGE CREDITS — BENEFITS DUE DECEDENT — BENEFIT WARRANTS CANCELED, WHEN — ELECTRONIC FUNDS TRANSFER SYSTEM, ALLOWED — REMOTE CLAIMS FILING PROCEDURES REQUIRED, CONTENTS, DUTIES. — 1. All benefits shall be paid through employment offices in accordance with such regulations as the division may prescribe.

2. Each eligible insured worker who is totally unemployed in any week shall be paid for such week a sum equal to his **or her** weekly benefit amount.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his **or her** weekly benefit amount and that part of his **or her** wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. **For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount.** Termination pay, severance pay or pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by section 502(a)(1) of Title 32, United States Code, [or who is an elected official] shall not be considered wages for the purpose of this subsection.

4. The division shall compute the wage credits for each individual by crediting him **or her** with the wages paid to him **or her** for insured work during each quarter of his **or her** base period or twenty-six times his **or her** weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in the form of termination pay or severance pay and such payment appears in a base period established by the filing of an initial claim, the claimant may, at his **or her** option, choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally among the quarters comprising the base period of the claim. The maximum total amount of benefits payable to any insured worker during any benefit year shall not exceed twenty-six times his **or her** weekly benefit amount, or thirty-three and one-third percent of his **or her** wage credits, whichever is the lesser. For the purpose of this section, wages shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has become an employer. The wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which he **or she** filed an allowed initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned either wages for insured work in an amount equal to at least five times his **or her** current weekly benefit amount or wages in an amount equal to at least ten times his **or her** current weekly benefit amount.

5. In the event that benefits are due a deceased person and no petition has been filed for the probate of the will or for the administration of the estate of such person within thirty days after his **or her** death, the division may by regulation provide for the payment of such benefits to such person or persons as the division finds entitled thereto and every such payment shall be a valid payment to the same extent as if made to the legal representatives of the deceased.

6. The division is authorized to cancel any benefit warrant remaining outstanding and unpaid one year after the date of its issuance and there shall be no liability for the payment of any such benefit warrant thereafter.

7. The division may establish an electronic funds transfer system to transfer directly to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter. To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct deposit application form authorizing the division to deposit benefit payments into a designated checking or savings account. Any electronic funds transfer system created pursuant to this subsection shall be administered in accordance with regulations prescribed by the division.

8. The division may issue a benefit warrant covering more than one week of benefits.

9. Prior to January 1, 2005, the division shall institute procedures including, but not limited to, name, date of birth, and social security verification matches for remote claims filing via the use of telephone or the Internet in accordance with such regulations as the division shall prescribe. At a minimum, the division shall verify the social security number and date of birth when an individual claimant initially files for unemployment insurance benefits. If verification information does not match what is on file in division databases to what the individual is stating, the division shall require the claimant to submit a division-approved form requesting an affidavit of eligibility prior to the payment of additional future benefits. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government on the most frequent basis recommended by the United States Department of Labor, or absent a recommendation, at least monthly. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

288.090. CONTRIBUTIONS REQUIRED, WHEN — PAYMENTS IN LIEU OF CONTRIBUTIONS, PROCEDURES — COMMON PAYMASTER ARRANGEMENTS. — 1. Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this law. Such contributions shall become due and be paid by each employer to the division for the fund on or before the last day of the month following each calendar quarterly period of three months except when regulation requires monthly payment. Any employer upon application, or pursuant to a general or special regulation, may be granted an extension of time, not exceeding three months, for the making of his **or her** quarterly contribution and wage reports or for the payment of such contributions. Payment of contributions due shall be made to the treasurer designated pursuant to section 288.290.

(1) In the payment of any contributions due, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent;

(2) Contributions shall not be deducted in whole or in part from the wages of individuals in employment.

2. As of June thirtieth of each year, the division shall establish an average industry contribution rate for the next succeeding calendar year for each of the industrial classification divisions listed in the [Standard Industrial Classification Manual furnished] **industrial classification system established** by the federal government. The average industry contribution rate for each standard industrial classification division shall be computed by multiplying total taxable wages paid by each employer in the industrial classification division during the twelve consecutive months ending on June thirtieth by the employer's contribution rate established for the next calendar year and dividing the aggregate product for all employers in the industrial classification division by the total of taxable wages paid by all employers in the industrial classification division during the twelve consecutive months ending on June thirtieth. Each employer will be assigned to [a standard] **an** industrial classification code division as determined by the division in accordance with the definitions contained in the [Standard Industrial Classification Manual] **industrial classification system established by the federal government**, and shall pay contributions at the average industry rate established for the preceding calendar year for the industrial classification division to which it is assigned or two and

seven-tenths percent of taxable wages paid by it, whichever is the greater, unless there have been at least twelve consecutive calendar months immediately preceding the calculation date throughout which its account could have been charged with benefits. The division shall classify all employers meeting this chargeability requirement for each calendar year in accordance with their actual experience in the payment of contributions on their own behalf and with respect to benefits charged against their accounts, with a view to fixing such contribution rates as will reflect such experience. The division shall determine the contribution rate of each such employer in accordance with sections 288.113 to 288.126. Notwithstanding the provisions of this subsection, any employing unit which becomes an employer pursuant to the provisions of subsection 7 or 8 of section 288.034 shall pay contributions equal to one percent of wages paid by it until its account has been chargeable with benefits for the period of time sufficient to enable it to qualify for a computed rate on the same basis as other employers.

3. Benefits paid to employees of any governmental entity and nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection, a "nonprofit organization" is an organization (or group of organizations) described in Section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under Section 501(a) of such code.

(1) A governmental entity which, pursuant to subsection 7 of section 288.034, or nonprofit organization which, pursuant to subsection 8 of section 288.034, is, or becomes, subject to this law on or after April 27, 1972, shall pay contributions due under the provisions of subsections 1 and 2 of this section unless it elects, in accordance with this subdivision, to pay to the division for the unemployment compensation fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such governmental entity or nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, any such election by a governmental entity shall be to pay to the division for the unemployment compensation fund an amount equal to the amount of all regular benefits and all extended benefits paid that is attributable to service in the employ of such governmental entity.

(a) A governmental entity or nonprofit organization which is, or becomes, subject to this law on or after April 27, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year, provided it files with the division a written notice of its election within the thirty-day period immediately following the date of the determination of such subjectivity. The provisions of paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100 shall not apply in the calendar year 1998 and each calendar year thereafter, in the case of an employer who has elected to become liable for payments in lieu of contributions.

(b) A governmental entity or nonprofit organization which makes an election in accordance with paragraph (a) of this subdivision will continue to be liable for payments in lieu of contributions until it files with the division a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall first be effective.

(c) A governmental entity or any nonprofit organization which has been paying contributions under this law for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the division not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.

(d) The division, in accordance with such regulations as may be adopted, shall notify each governmental entity or nonprofit organization of any determination of its status of an employer and of the effective date of any election which it makes and of any termination of such election. Such determination shall be subject to appeal as is provided in subsection 4 of section 288.130.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of paragraph (a) of this subdivision, as follows:

(a) At the end of each calendar quarter, or at the end of any other period as determined by the director, the division shall bill the governmental entity or nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter or other prescribed period that is attributable to service in the employ of such organization; except that, with respect to extended benefits paid for weeks of unemployment beginning on or after January 1, 1979, which are attributable to service in the employ of a governmental entity, the governmental entity shall be billed for the full amount of such extended benefits.

(b) Payment of any bill rendered under paragraph (a) of this subdivision shall be due and shall be made not later than thirty days after such bill was mailed to the last known address of the governmental entity or nonprofit organization or was otherwise delivered to it.

(c) Payments made by the governmental entity or nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(d) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that apply to past due contributions. Also, unpaid amounts in lieu of contributions, interest, penalties and surcharges are subject to the same assessment, civil action and compromise provisions of this law as apply to unpaid contributions. Further, the provisions of this law which provide for the adjustment or refund of contributions shall apply to the adjustment or refund of payments in lieu of contributions.

(3) If any governmental entity or nonprofit organization fails to timely file a required quarterly wage report, the division shall assess such entity or organization a penalty as provided in subsections 1 and 2 of section 288.160.

(4) Except as provided in subsection 4 of this section, each employer that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer; except that, with respect to benefits paid for weeks of unemployment beginning on or after January 1, 1979, a governmental entity that is liable for payments in lieu of contributions shall pay to the division for the fund the amount of all regular benefits and all extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer in the base period of the claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period.

(5) Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of subdivision (1) of this subsection, may file a joint application to the division for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subdivision. Upon approval of the application, the division shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the application was received and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the director or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in such quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by such member in such quarter bears to the total wages paid during such quarter for service performed in the employ of all

members of the group. The director shall prescribe such regulations as he **or she** deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subdivision by members of the group and the time and manner of such payments.

4. Any employer which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in subdivision (1) of subsection 3 of this section shall not be liable to make such payments with respect to the benefits paid to any individual whose base period wages include wages for previous work not classified as insured work as defined in section 288.030 to the extent that the unemployment compensation fund is reimbursed for such benefits pursuant to Section 121 of Public Law 94-566.

5. Any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund in an amount equal to the interest rate on United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. Governmental entities except cities, counties and the state of Missouri which elect to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation fund in an amount equal to one-half of the interest rate on United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter. The provisions of this subsection shall not be effective after September 30, 1993.

6. Beginning October 1, 1993, through December 31, 1993, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund in an amount equal to the interest rate of United States treasury bills, averaged for the previous four calendar quarters, multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter.

7. Beginning January 1, 1994, through December 31, 1995, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for an additional surcharge to the division for the unemployment compensation trust fund. The calendar year surcharge rate will be the base prime rate on corporate loans posted by at least seventy-five percent of the nation's thirty largest banks as of November thirtieth of the preceding year. The additional surcharge will be the surcharge rate multiplied by the total benefit payments charged to the employer's account. The cumulative benefits charged plus the cumulative surcharges pursuant to this subsection for all employers electing to make payments in lieu of contributions shall not exceed the summation of total benefit payments chargeable and not chargeable for the calendar quarter.

8. Beginning January 1, 1996, through December 31, 1996, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for the total benefit payments chargeable to its account pursuant to the provisions of section 288.100 plus one-third of the total benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining two-thirds of the benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment compensation trust fund.

9. Beginning January 1, 1997, through December 31, 1997, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for the total benefit payments chargeable to its account pursuant to the provisions of section 288.100 plus two-thirds of the total benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100. The remaining one-third of the benefit payments not charged to its account pursuant to paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100 shall be paid by the unemployment compensation trust fund.

10. Beginning January 1, 1998, and each calendar year thereafter, any employer which elects to make payments in lieu of contributions pursuant to subsection 3 of this section shall be liable for all benefit payments and shall not have charges relieved pursuant to the provisions of paragraphs (a) through (e) of subdivision (4) of subsection 1 of section 288.100.

11. (1) For the purposes of this chapter, a common paymaster arrangement will not exist unless approval has been obtained from the division. To receive a division-approved common paymaster arrangement, the related corporation designated to be the common paymaster for the related corporations must notify the division in writing at least thirty days prior to the beginning of the quarter in which the common paymaster reporting is to be effective. The common paymaster shall furnish the name and account number of each corporation in the related group that will be utilizing the one corporation as the common paymaster. The common paymaster shall also notify the division at least thirty days prior to any change in the related group of corporations or termination of the common paymaster arrangement. The common paymaster shall be responsible for keeping books and records for the payroll with respect to its own employees and the concurrently employed individuals of the related corporations. In order for remuneration to be eligible for the provisions applicable to a common paymaster, the individuals must be concurrently employed and the remuneration must be disbursed through the common paymaster. The common paymaster shall have the primary responsibility for remitting all required quarterly contribution and wage reports, contributions due with respect to the remuneration it disburses as the common paymaster and/or payments in lieu of contributions. The common paymaster shall compute the contributions due as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to remit the quarterly contribution and wage reports, contributions due and/or payments in lieu of contributions, in whole or in part, it shall remain liable for submitting the quarterly contribution and wage reports and the full amount of the unpaid portion of the contributions due and/or payments in lieu of contributions. In addition, each of the related corporations using the common paymaster shall be jointly and severally liable for submitting quarterly contribution and wage reports, its share of the contributions due and/or payments in lieu of contributions, penalties, interest and surcharges which are not submitted and/or paid by the common paymaster. All contributions due, payments in lieu of contributions, penalties, interest and surcharges which are not timely paid to the division under a common paymaster arrangement shall be subject to the collection provisions of this chapter.

(2) For the purposes of this subsection, "concurrent employment" means the simultaneous existence of an employment relationship between an individual and two or more related corporations for any calendar quarter in which employees are compensated through a common paymaster which is one of the related corporations, those corporations shall be considered one employing unit and be subject to the provisions of this chapter.

(3) For the purposes of this subsection, "related corporations" means that corporations shall be considered related corporations for an entire calendar quarter if they satisfy any one of the following tests at any time during the calendar quarter:

(a) The corporations are members of a "controlled group of corporations". The term "controlled group of corporations" means:

a. Two or more corporations connected through stock ownership with a common parent corporation, if the parent corporation owns stock possessing at least fifty percent of the total

combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

b. Two or more corporations, if five or less persons who are individuals, estates or trusts own stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote or at least fifty percent of the total value of shares of all classes of stock of each of the other corporations; or

(b) In the case of corporations which do not issue stock, at least fifty percent of the members of one corporation's board of directors are members of the board of directors of the other corporations; or

(c) At least fifty percent of one corporation's officers are concurrently officers of the other corporations; or

(d) At least thirty percent of one corporation's employees are concurrently employees of the other corporations.

288.100. EXPERIENCE RATING — EMPLOYER ACCOUNTS, CREDITS AND CHARGES. —

1. (1) The division shall maintain a separate account for each employer which is paying contributions, and shall credit each employer's account with all contributions which each employer has paid. A separate account shall be maintained for each employer making payments in lieu of contributions to which shall be credited all such payments made. The account shall also show payments due as provided in section 288.090. The division may close and cancel such separate account after a period of four consecutive calendar years during which such employer has had no employment in this state subject to contributions. Nothing in this law shall be construed to grant any employer or individuals in the employer's service prior claims or rights to the amounts paid by the employer into the fund either on the employer's own behalf or on behalf of such individuals. Except as provided in subdivision (4) of this subsection, regular benefits and that portion of extended benefits not reimbursed by the federal government paid to an eligible individual shall be charged against the accounts of the individual's base period employers who are paying contributions subject to the provisions of subdivision (4) of subsection 3 of section 288.090. With respect to initial claims filed after December 31, 1984, for benefits paid to an individual based on wages paid by one or more employers in the base period of the claim, the amount chargeable to each employer shall be obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period. Except as provided in paragraph (a) of this subdivision, the maximum amount of extended benefits paid to an individual and charged against the account of any employer shall not exceed one-half of the product obtained by multiplying the benefits paid by a ratio obtained by dividing the base period wages from such employer by the total wages appearing in the base period.

(a) The provisions of subdivision (1) of this subsection notwithstanding, with respect to weeks of unemployment beginning after December 31, 1978, the maximum amount of extended benefits paid to an individual and charged against the account of an employer which is an employer pursuant to subdivision (3) of subsection 1 of section 288.032 and which is paying contributions pursuant to subsections 1 and 2 of section 288.090 shall not exceed the calculated entitlement for the extended benefit claim based upon the wages appearing within the base period of the extended benefit claim.

(2) Beginning as of June 30, 1951, and as of June thirtieth of each year thereafter, any unassigned surplus in the unemployment compensation fund which is five hundred thousand dollars or more in excess of five-tenths of one percent of the total taxable wages paid by all employers for the preceding calendar year as shown on the division's records on such June thirtieth shall be credited on a pro rata basis to all employer accounts having a credit balance in the same ratio that the balance in each such account bears to the total of the credit balances subject to use for rate calculation purposes for the following year in all such accounts on the same date. As used in this subdivision, the term "unassigned surplus" means the amount by

which the total cash balance in the unemployment compensation fund exceeds a sum equal to the total of all employer credit account balances. The amount thus prorated to each separate employer's account shall for tax rating purposes be considered the same as contributions paid by the employer and credited to the employer's account for the period preceding the calculation date except that no such amount can be credited against any contributions due or that may thereafter become due from such employer.

(3) At the conclusion of each calendar quarter the division shall, within thirty days, notify each employer by mail of the benefits paid to each claimant by week as determined by the division which have been charged to such employer's account subsequent to the last notice.

(4) (a) No benefits based on wages paid for services performed prior to the date of any act for which a claimant is disqualified pursuant to section 288.050 shall be chargeable to any employer directly involved in such disqualifying act.

(b) In the event the deputy has in due course determined pursuant to paragraph (a) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit his **or her** work with an employer for the purpose of accepting a more remunerative job with another employer which the claimant did accept and earn some wages therein, no benefits based on wages paid prior to the date of the quit shall be chargeable to the employer the claimant quit.

(c) In the event the deputy has in due course determined pursuant to paragraph (b) of subdivision (1) of subsection 1 of section 288.050 that a claimant quit temporary work in employment with an employer to return to the claimant's regular employer, then, only for the purpose of charging base period employers, all of the wages paid by the employer who furnished the temporary employment shall be combined with the wages actually paid by the regular employer as if all such wages had been actually paid by the regular employer. Further, charges for benefits based on wages paid for part-time work shall be removed from the account of the employer furnishing such part-time work if that employer continued to employ the individual claiming such benefits on a regular recurring basis each week of the claimant's claim to at least the same extent that the employer had previously employed the claimant and so informs the division within thirty days from the date of notice of benefit charges.

(d) No charge shall be made against an employer's account in respect to benefits paid an individual if the gross amount of wages paid by such employer to such individual is four hundred dollars or less during the individual's base period on which the individual's benefit payments are based. Further, no charge shall be made against any employer's account in respect to benefits paid any individual unless such individual was in employment with respect to such employer longer than a probationary period of twenty-eight days, if such probationary period of employment has been reported to the division as required by regulation.

(e) In the event the deputy has in due course determined pursuant to paragraph (c) of subdivision (1) of subsection 1 of section [228.050] **288.050** that a claimant is not disqualified, no benefits based on wages paid for work prior to the date of the quit shall be chargeable to the employer the claimant quit.

(f) Nothing in paragraph (b), (c), (d) or (e) of this subdivision shall in any way affect the benefit amount, duration of benefits or the wage credits of the claimant.

2. The division may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such an account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

3. The division may by regulation provide for the compilation and publication of such data as may be necessary to show the amounts of benefits not charged to any individual employer's account classified by reason no such charge was made and to show the types and amounts of transactions affecting the unemployment compensation fund.

288.110. TRANSFER OF EMPLOYER ACCOUNTS — SUCCESSOR EMPLOYER LIABILITIES.

— Any individual, type of organization or employing unit which has acquired substantially all of the business of an employer, excepting in any such case any assets retained by such employer incident to the liquidation of his obligations, and in respect to which the division finds that immediately after such change such business of the predecessor employer is continued without interruption solely by the successor, shall stand in the position of such predecessor employer in all respects, including the predecessor's separate account, actual contribution and benefit experience, annual payrolls, and liability for current or delinquent contributions, interest and penalties. If two or more individuals, organizations, or employing units acquired at approximately the same time substantially all of the business of an employer (excepting in any such case any assets retained by such employer incident to the liquidation of his obligations) and in respect to which the division finds that immediately after such change all portions of such business of the predecessor are continued without interruption solely by such successors, each such individual, organization, or employing unit shall stand in the position of such predecessor with respect to the proportionate share of the predecessor's separate account, actual contribution and benefit experience and annual payroll as determined by the portion of the predecessor's taxable payroll applicable to the portion of the business acquired, and each such individual, organization or employing unit shall be liable for current or delinquent contributions, interest and penalties of the predecessor in the same relative proportion. Further, any successor under this section which was not an employer at the time the acquisition occurred, shall pay contributions for the balance of the current rate year at the same contribution rate as the contribution rate of the predecessor whether such rate is more or less than two and seven-tenths percent, provided there was only one predecessor or there were only predecessors with identical rates. If the predecessors' rates were not identical, the division shall calculate a rate as of the date of acquisition applicable to the successor for the remainder of the rate year, which rate shall be based on the combined experience of all predecessor employers. In the event that any successor was, prior to an acquisition, an employer, and there is a difference in the contribution rate established for such calendar year applicable to any acquired or acquiring employer, the division shall make a recalculation [as of the date of acquisition] of the contribution rate applicable to any successor employer based upon the combined experience of all predecessor and successor employers[, which] **as of the date of the acquisition, unless the date of the acquisition is other than the first day of the calendar quarter. If the date of any such acquisition is other than the first day of the calendar quarter, the division shall make the recalculation of the rate on the first day of the next calendar quarter after the acquisition. When the date of the acquisition is other than the first day of a calendar quarter, the successor employer shall use its rate for the calendar quarter in which the acquisition was made. The revised contribution rate shall apply to employment after the [date of any such acquisition] rate recalculation.** For this purpose a calculation date different from July first may be established. When the division has determined that a successor or successors stand in the position of a predecessor employer, the predecessor's liability shall be terminated as of the date of the acquisition.

288.120. EMPLOYER'S CONTRIBUTION RATE, HOW DETERMINED — EXCEPTION SHARED WORK PLAN, HOW COMPUTED — SURCHARGES FOR EMPLOYERS TAXED AT THE MAXIMUM RATE. — 1. On each June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, the balance of an employer's experience rating account, except an employer participating in a shared work plan under section 288.500, shall determine his contribution rate for the following calendar year as determined by the following table:

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
— —	-12.0	6.0%

-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%
-2.0	-1.0	3.8%
-1.0	0	3.6%
0	2.5	2.7%
2.5	3.5	2.6%
3.5	4.5	2.5%
4.5	5.0	2.4%
5.0	5.5	2.3%
5.5	6.0	2.2%
6.0	6.5	2.1%
6.5	7.0	2.0%
7.0	7.5	1.9%
7.5	8.0	1.8%
8.0	8.5	1.7%
8.5	9.0	1.6%
9.0	9.5	1.5%
9.5	10.0	1.4%
10.0	10.5	1.3%
10.5	11.0	1.2%
11.0	11.5	1.1%
11.5	12.0	1.0%
12.0	12.5	0.9%
12.5	13.0	0.8%
13.0	13.5	0.6%
13.5	14.0	0.4%
14.0	14.5	0.3%
14.5	15.0	0.2%
15.0	— —	0.0%

2. Using the same mathematical principles used in constructing the table provided in subsection 1 of this section, the following table has been constructed. The contribution rate for the following calendar year of any employer participating in a shared work plan under section 288.500 during the current calendar year or any calendar year during a prior three-year period shall be determined from the balance in such employer's experience rating account as of the previous June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, from the following table:

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
— —	-27.0	9.0%
-27.0	-26.0	8.8%
-26.0	-25.0	8.6%
-25.0	-24.0	8.4%
-24.0	-23.0	8.2%

-23.0	-22.0	8.0%
-22.0	-21.0	7.8%
-21.0	-20.0	7.6%
-20.0	-19.0	7.4%
-19.0	-18.0	7.2%
-18.0	-17.0	7.0%
-17.0	-16.0	6.8%
-16.0	-15.0	6.6%
-15.0	-14.0	6.4%
-14.0	-13.0	6.2%
-13.0	-12.0	6.0%
-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%
-2.0	-1.0	3.8%
-1.0	0	3.6%
0	2.5	2.7%
2.5	3.5	2.6%
3.5	4.5	2.5%
4.5	5.0	2.4%
5.0	5.5	2.3%
5.5	6.0	2.2%
6.0	6.5	2.1%
6.5	7.0	2.0%
7.0	7.5	1.9%
7.5	8.0	1.8%
8.0	8.5	1.7%
8.5	9.0	1.6%
9.0	9.5	1.5%
9.5	10.0	1.4%
10.0	10.5	1.3%
10.5	11.0	1.2%
11.0	11.5	1.1%
11.5	12.0	1.0%
12.0	12.5	0.9%
12.5	13.0	0.8%
13.0	13.5	0.6%
13.5	14.0	0.4%
14.0	14.5	0.3%
14.5	15.0	0.2%
15.0	— —	0.0%

3. Notwithstanding the provisions of subsection 2 of section 288.090, any employer participating in a shared work plan under section 288.500, who has not had at least twelve calendar months immediately preceding the calculation date throughout which his account could have been charged with benefits shall have a contribution rate equal to the highest contribution

rate in the table in subsection 2 of this section, until such time as his account has been chargeable with benefits for the period of time sufficient to enable him to qualify for a computed rate on the same basis as other employers participating in shared work plans.

4. Employers who have been taxed at the maximum rate pursuant to this section for two consecutive years shall have a surcharge of one-quarter percent added to their contribution rate calculated pursuant to this section. In the event that an employer remains at the maximum rate pursuant to this section for a third or subsequent year, an additional surcharge of one-quarter percent shall be annually assessed, but in no case shall this surcharge cumulatively exceed one percent. Additionally, if an employer continues to remain at the maximum rate pursuant to this section an additional surcharge of one-half percent shall be assessed. In no case shall the total surcharge assessed to any employer exceed one and one-half percent in any given year.

288.121. RATE INCREASED WHEN AVERAGE BALANCE IN FUND IS LESS THAN CERTAIN AMOUNT, HOW — RATE CALCULATIONS FOR CERTAIN YEARS. — 1. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is less than four hundred **fifty** million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be increased by the percentage determined from the following table:

Balance in Trust Fund		Percentage of Increase
Less Than	Equals or Exceeds	
[Less Than \$400,000,000] \$450,000,000	[Equals or Exceeds \$350,000,000] \$400,000,000	10%
[Less Than \$350,000,000] \$400,000,000	[Equals or Exceeds \$300,000,000] \$350,000,000	20%
[Less Than \$300,000,000] \$350,000,000		30%

[Notwithstanding the table in this section, each employer's contribution rate calculated for the four calendar quarters of calendar year 1994 shall be increased by forty percent, instead of thirty percent, as previously indicated in the table in this section. After the forty percent increase, each employer's contribution rate for the four calendar quarters of calendar year 1994 shall be increased by adding three-tenths of one percent.] **For calendar years 2005, 2006, and 2007, the contribution rate of any employer who is paying the maximum contribution rate shall be increased by forty percent, instead of thirty percent as previously indicated in the table in this section.**

2. For calendar years 2005, 2006, and 2007, an employer's total contribution rate shall equal the employer's contribution rate plus a temporary debt indebtedness assessment equal to the amount to be determined in subdivision 6 of subsection 2 of section 288.330 added to the contribution rate plus the increase authorized under subsection 1 of this section. Any monies overcollected beyond the actual administrative, interest and principal repayment costs for the credit instruments used shall be deposited into the state unemployment insurance trust fund and credited to the employer's experience account. The temporary debt indebtedness assessment shall expire upon the last day of the fourth calendar quarter of 2007.

288.122. IF CASH IN FUND EXCEEDS CERTAIN AMOUNTS, CONTRIBUTION RATE TO DECREASE, AMOUNT — TABLE — EFFECTIVE WHEN. — On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is more than five hundred million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be decreased by the percentage determined from the following table:

Balance in Trust Fund		Percentage of Decrease
More Than [\$500,000,000 \$600,000,000 [\$600,000,000] \$750,000,000	But Less Than \$600,000,000] \$750,000,000	7% 12%

Notwithstanding the table in this section, if the balance in the unemployment insurance compensation trust fund as calculated in this section is more than [six] **seven** hundred **fifty** million dollars, the percentage of decrease of the employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be no greater than ten percent for any employer whose calculated contribution rate under section 288.120 is six percent or greater.

288.128. ADDITIONAL ASSESSMENT FOR INTEREST ON FEDERAL ADVANCEMENTS AND PROCEEDS OF CREDIT INSTRUMENTS, PROCEDURE — EXCESS COLLECTIONS, USE OF — CREDIT INSTRUMENT AND FINANCING AGREEMENT REPAYMENT SURCHARGE. — 1. In addition to all other contributions due under this chapter, if the fund is utilizing moneys advanced by the federal government under the provisions of 42 U.S.C.A., section 1321 pursuant to section 288.330, **or if the fund is not utilizing moneys advanced by the federal government, then from the proceeds of credit instruments issued under section 288.330, or from the moneys advanced under financial agreements under subdivision (17) of subsection 2 of section 288.330, or a combination of credit instruments proceeds and moneys advanced under financial agreements,** each employer shall be assessed an amount solely for the payment of interest due on such federal advancements, **or if the fund is not utilizing moneys advanced by the federal government, or in the case of issuance of credit instruments for the payment of the principal, interest, and administrative expenses related to such credit instruments, or in the case of financial agreements for the payment of principal, interest, and administrative expenses related to such financial agreements, or in the case of a combination of credit instruments and financial agreements for the payment of principal, interest, and administrative expenses for both.** The rate shall be determined by dividing the interest due **on federal advancements or if the fund is not utilizing moneys advanced by the federal government, then the principal, interest, and administrative expenses related to credit instruments, or the principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the principal, interest, and administrative expenses related to a combination of credit instruments and financial agreements** by ninety-five percent of the total taxable wages paid by all Missouri employers in the preceding calendar year. Each employer's proportionate share shall be the product obtained by multiplying such employer's total taxable wages for the preceding calendar year by the rate specified in this section. Each employer shall be notified of the amount due under this section by June thirtieth of each year and such amount shall be considered delinquent thirty days thereafter. The moneys collected from each employer for the payment of interest due on federal advances, **or if the fund is not utilizing moneys advanced by the federal government, then the payment of principal, interest, and administrative expenses related to credit instruments, or the payment of the principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the payment of the principal, interest, and administrative expenses related to a combination of credit instruments and financial agreements,** shall be deposited in the special employment security fund.

2. If on December thirty-first of any year the money collected under this section exceeds the amount of interest due on federal advancements by one hundred thousand dollars or more, then each employer's experience rating account shall be credited with an amount which bears the same ratio to the excess moneys collected under this section as that employer's payment collected

under this section bears to the total amount collected under this section. Further, if on December thirty-first of any year the moneys collected under this section exceed the amount of interest due on the federal advancements by less than one hundred thousand dollars, the balance shall be transferred from the special employment security fund to the Secretary of the Treasury of the United States to be credited to the account of this state in the unemployment trust fund.

3. In addition to all other contributions due under this chapter, if the fund is utilizing moneys from the proceeds of credit instruments issued under section 288.330, or from the moneys advanced under financial agreements under subdivision (17) of subsection 2 of section 288.330, or a combination of credit instrument proceeds and moneys advanced under financial agreements each employer shall be assessed a "credit instrument and financing agreement repayment surcharge." The total of such surcharge shall be calculated as an amount up to 150% of the amount required in the 12 month period following the due date for the payment of such surcharge for the payment of the principal, interest, and administrative expenses related to such credit instruments, or in the case of financial agreements for the payment of principal, interest, and administrative expenses related to such financial agreements, or in the case of a combination of credit instruments and financial agreements for the payment of principal, interest, and administrative expenses for both. Each employer's proportionate share shall be the product obtained by multiplying the total statewide credit instrument and financing agreement repayment surcharge by a number obtained by dividing the employer's total taxable wages for the prior year by the total taxable wages in the state for the prior year. Each employer shall be notified of the amount due under this section by (January)thirtieth of each year and such amount shall be considered delinquent thirty days thereafter.

288.175. DEBTOR'S FEDERAL INCOME TAX REFUND MAY BE INTERCEPTED — DEBT DEFINED — DEBTOR DEFINED. — 1. Notwithstanding any other provisions to the contrary, the division may collect any debt by interception of the debtor's federal income tax refund, in the manner and to the extent allowed by federal law.

2. "Debt" shall mean any established overpayment or sum past due that is legally owed and enforceable under the Missouri employment security law, which has accrued through contract or operation of law and which has become final under state law and remains uncollected.

3. "Debtor" shall mean any individual, sole proprietorship, partnership, corporation, limited liability company, or other legal entity owing a debt.

288.290. UNEMPLOYMENT COMPENSATION FUND, ESTABLISHED — ADMINISTRATION, DEPOSIT OF FUNDS — PURPOSES — ERRONEOUS COLLECTION OF INTEREST OR PENALTIES.

— 1. There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an "Unemployment Compensation Fund", which shall be administered by the division exclusively for the purposes of this law. This fund shall consist of:

- (1) All contributions and payments in lieu of contributions collected under this law;**
- (2) Interest earned upon any moneys in the fund;**
- (3) Any property or securities acquired through the use of moneys belonging to the fund;**
- (4) All earnings of such property or securities;**
- (5) All voluntary contributions permitted under the law; and**

(6) All funds set aside or appropriated by the Congress of the United States or any federal agency, to be deposited to the fund. All moneys in the funds shall be mingled and undivided, except that all money credited to this state's account in the Unemployment Trust Fund pursuant to Section 903 of the Social Security Act, as amended, and which has been appropriated for expenses of administration, shall be used only for the purposes set out in subsection 5 of this section and shall not be included in the cash balance in the unemployment compensation fund for the purposes of sections 288.100 and 288.113 to 288.126.

2. The director shall designate a treasurer and custodian of the fund and he **or she** shall administer the fund and shall issue his **or her** warrants upon it in accordance with such regulations as the director shall prescribe. He **or she** shall maintain within the fund three separate accounts:

- (1) A clearing account;
- (2) An unemployment trust fund account; and
- (3) A benefit account.

To ensure that unemployment compensation trust fund moneys are utilized only for the purpose authorized, no other fund shall be established with increased employer taxes that are offset by a reduction of unemployment contributions, except for the special employment security fund created in section 288.310.

3. All moneys payable to the fund, upon their receipt by the division, shall immediately be deposited in the clearing account. Refunds of contributions or payments made necessary under the provisions of sections 288.140 and 288.340 may be paid from the clearing account or the benefit account. After clearance, all moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of state moneys in the possession or custody of the state treasurer to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from the Missouri account in the federal Unemployment Trust Fund. Except as otherwise provided, moneys in the clearing and benefit accounts may be deposited in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and benefit accounts shall not be commingled with other state funds but shall be maintained in separate accounts on the books of the depository bank. All funds required by this law to be deposited in any state depository shall be secured by such depository to the same extent and in the same manner as is or may hereafter be required by section 30.270, RSMo, and all the amendments thereto; provided, that the division shall do those acts directed to be done by the governor, attorney general and state treasurer, or any of them, under section 30.270, RSMo, which are not inconsistent with the other provisions of this law. Collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the state, or, if combined, shall be first used to satisfy and make whole the accounts herein established. The treasurer shall give a separate bond conditioned upon the faithful performance of his **or her** duties as custodian of the fund in an amount not to exceed twenty-five thousand dollars and in the form prescribed by law or approved by the attorney general. Premiums for such bonds shall be paid from the administration fund. All sums recovered for losses sustained by the fund shall be deposited therein.

4. Moneys shall be requisitioned from the Missouri account in the federal Unemployment Trust Fund solely for the payment of benefits or for refunds of contributions or payments in lieu of contributions in accordance with regulations prescribed by the director, except that money credited to this state's account pursuant to Section 903 of the Social Security Act, as amended, shall be used exclusively as provided in subsection 5 of this section. The director shall from time to time requisition from the federal Unemployment Trust Fund such amounts, not exceeding the amounts standing to the Missouri account therein, as he **or she** deems necessary for the payment of benefits and refunds for a reasonable future period. Upon its receipt the treasurer shall deposit such money in the benefit account and shall issue his **or her** warrants for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of moneys belonging to this state in their custody. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the director or other duly

authorized division representative. Any balance of moneys requisitioned from the federal Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the director, shall be redeposited with the Secretary of the Treasury of the United States of America to the credit of the Missouri account in the federal Unemployment Trust Fund as provided in subsection 3 of this section.

5. (1) Money credited to the account of this state in the Unemployment Trust Fund by the Secretary of the Treasury of the United States of America pursuant to Section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this law pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned as needed after the enactment of an appropriation law which:

(a) Specifies the purpose for which such money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during a twelve-month period beginning on July first and ending on the next June thirtieth to an amount which does not exceed the amount by which the aggregate of the amount transferred to the account of this state in the Unemployment Trust Fund pursuant to subsections (a) and (b) of Section 903 of the Social Security Act, as amended, exceeds the aggregate of the amounts used by this state pursuant to this subsection and charged against the amounts transferred to the account of this state in the Unemployment Trust Fund.

(2) The use of the money referred to in subdivision (1) of this subsection shall be accounted for in accordance with standards established by the Secretary of Labor.

(3) For purposes of subdivision (1) of this subsection, amounts used by this state for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into.

(4) Money credited to the account of this state pursuant to Section 903 of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of this law and of public employment offices pursuant to this subsection.

(5) Money appropriated as provided under subdivision (1) of this subsection for the payment of expenses of administration shall be requisitioned as needed for the payment of obligations incurred under such appropriation and, upon requisition, shall be deposited in the unemployment compensation administration fund from which such payments shall be made. Money so deposited shall, until expended, remain a part of the unemployment compensation fund and, if it will not be expended, shall be returned promptly to the account of this state in the Unemployment Trust Fund.

(6) Money credited to the account of the state in the federal Unemployment Trust Fund by the Secretary of the Treasury of the United States of America pursuant to Title 42, Section 903 of the Social Security Act with respect to the federal fiscal years 1999, 2000 and 2001, shall be used solely for the administration of the unemployment compensation program.

6. The provisions of subsections 1, 2, 3, 4, and 5 of this section, to the extent that they relate to the federal Unemployment Trust Fund, shall be operative only so long as such federal Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain a separate book account of all funds deposited therein by contributions from employers of this state for benefit purposes, and by money credited pursuant to Section 903 of the Social Security Act, as amended, together with a proportionate share of the earnings apportioned to the Missouri account of such federal Unemployment Trust Fund, from which no other state is permitted to make or authorize withdrawals. If and when

such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties or securities in a manner approved by the director in accordance with the provisions of this law; provided, that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America, or securities on which the payment of principal and interest are guaranteed by the United States of America, and bonds or other interest-bearing obligations of the state of Missouri; and provided, further, that such investments shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the director.

7. Notwithstanding any other provision of this law, any interest or penalties found to have been erroneously collected and which is ordered to be refunded shall, if paid into the unemployment compensation fund, be refunded out of the unemployment compensation fund and, if paid into the special employment security fund, shall be refunded out of the special employment security fund; except that, in the event any interest and penalties paid into the unemployment compensation fund shall be transferred to the special employment security fund, the refund of any such interest and penalties shall be made from the special employment security fund.

288.310. SPECIAL EMPLOYMENT SECURITY FUND — USE OF FUNDS — AMOUNTS TRANSFERRED BETWEEN FUNDS, WHEN. — 1. There is hereby created in the state treasury a special fund to be known as the "Special Employment Security Fund". All interest and penalties collected under the provisions of this law, including moneys collected pursuant to section 288.128 for the payment of interest due on federal advances received pursuant to section 288.330, **or subject to appropriation, or supplemental appropriation, by the general assembly, amounts received pursuant to the credit instrument and financing agreement repayment surcharge pursuant to section 288.128 related to the payment of principal, interest, and administrative expenses related to credit instruments issued under section 288.330, or the payment of the principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the payment of the principal, interest, and administrative expenses related to a combination of credit instruments and financial agreements** shall be paid into this fund. The moneys collected pursuant to section 288.128 shall be used [exclusively] for the payment of interest due on federal advances received pursuant to section 288.330. **Amounts received pursuant to the credit instrument and financing agreement repayment surcharge pursuant to subsection 3 of section 288.128 shall be used, following appropriation by the general assembly and exclusively for payment of principal, interest, and administrative expenses related to credit instruments issued under that section, or the payment of principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the payment of the principal, interest, and administrative expenses related to a combination of credit instruments and financial agreements.** Such moneys, except for moneys collected pursuant to section 288.128, shall not be expended or available for expenditure in any manner which would permit their substitution for, or a corresponding reduction in, federal funds which would in the absence of such money be available to finance expenditures for the administration of the employment security law, but nothing in this section shall prevent such moneys, except for moneys collected pursuant to section 288.128, from being used as a revolving fund, to cover expenditures, necessary and proper under the law, for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. Subject to the

approval of the director of the department of labor and industrial relations, the moneys in this fund, except for moneys collected pursuant to section 288.128, shall be used by the department of labor and industrial relations for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the unemployment compensation administration fund. Such moneys, except for moneys collected pursuant to section 288.128, shall be available either to satisfy the obligations incurred by the department of labor and industrial relations for the division directly or by requesting the board of fund commissioners to transfer the required amount from the special employment security fund to the unemployment compensation administration fund. The board of fund commissioners shall upon receipt of a written request of the department of labor and industrial relations make any such transfer. No expenditures of this fund or transfer herein provided, except for moneys collected pursuant to section 288.128, shall be made unless and until the director of the department of labor and industrial relations finds that no other funds are available or can properly be used to finance such expenditures, except that as hereinafter authorized expenditures from such fund may be made for the purpose of acquiring lands and buildings, or for the erection of buildings on lands so acquired, which are deemed necessary by the director of the department of labor and industrial relations for the proper administration of this law. The director of the department of labor and industrial relations shall order the transfer of such funds or the payment of any such obligation and such funds shall be paid by the state treasurer on requisitions drawn by the director of the department of labor and industrial relations directing the state auditor to issue his or her warrant therefor. Any such warrant shall be drawn by the state auditor based upon bills of particulars and vouchers certified by an officer or employee designated by the director of the department of labor and industrial relations. Such certification shall among other things include a duly certified copy of the director of the department of labor and industrial relations' findings hereinbefore referred to. The moneys in this fund, except for moneys collected pursuant to section 288.128, are hereby specifically made available to replace, within a reasonable time, any moneys received by this state pursuant to section 302 of the Federal Social Security Act (42 U.S.C.A. Sec. 502), as amended, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of the employment security law. The moneys in this fund shall be continuously available to the director of the department of labor and industrial relations for expenditure in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund except as herein provided.

2. The director of the department of labor and industrial relations, subject to the approval of the board of public buildings, is authorized and empowered to use all or any part of the funds in the special employment security fund, except for moneys collected pursuant to section 288.128, for the purpose of acquiring suitable office space for the division by way of purchase, lease, contract or in any other manner, including the right to use such funds or any part thereof to purchase land and erect thereon such buildings as he or she shall deem necessary or to assist in financing the construction of any building erected by the state of Missouri or any of its agencies wherein available space will be provided for the division under lease or contract between the department of labor and industrial relations and the state of Missouri or such other agency. The director of the department of labor and industrial relations may transfer from the unemployment compensation administration fund to the special employment security fund amounts not exceeding funds specifically available to the department of labor and industrial relations for that purpose, equivalent to the fair reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment security fund has been returned to such fund.

3. The director of the department of labor and industrial relations may also transfer from the unemployment compensation administration fund to the special employment security fund amounts not exceeding funds specifically available to the department of labor and industrial

relations for that purpose, equivalent to the fair reasonable rental value of space used by the department of labor and industrial relations in any building erected by the state of Missouri or any of its agencies until such time as the department of labor and industrial relations' proportionate amount of the purchase price of such building and the department of labor and industrial relations' proportionate amount of such costs of repair and maintenance thereof as was expended from the special employment security fund has been returned to such fund.

288.330. STATE LIABILITY FOR BENEFITS LIMITED, AUTHORITY FOR APPLICATION AND REPAYMENT OF FEDERAL ADVANCES — BOARD OF UNEMPLOYMENT FUND FINANCING CREATED, DUTIES, REQUIREMENTS, POWERS — DISPOSITION OF UNOBLIGATED FUNDS. —

1. Benefits shall be deemed to be due and payable only to the extent that moneys are available to the credit of the unemployment compensation fund and neither the state nor the division shall be liable for any amount in excess of such sums. [Neither the state of Missouri, nor any person or agency acting for it, may under any circumstance, by issuing bonds or otherwise borrow money from any source whatsoever to pay benefits hereunder, except as provided in 42 U.S.C.A. Section 1321.] The governor is authorized to apply for an advance to the state unemployment fund and to accept the responsibility for the repayment of such advance [in accordance with the conditions specified in Title XII of the Social Security Act, as amended.] in order to secure to this state and its citizens the advantages available under the provisions of [such title] **federal law.**

2. (1) **The purpose of this subsection is to provide a method of providing funds for the payment of unemployment benefits or maintaining an adequate fund balance in the unemployment compensation fund, and as an alternative to borrowing or obtaining advances from the federal unemployment trust fund or for refinancing those loans or advances.**

(2) For the purposes of this subsection, "credit instrument" means any type of borrowing obligation issued under this section, including any bonds, commercial line of credit note, tax anticipation note or similar instrument.

(3) (a) There is hereby created for the purposes of implementing the provisions of this subsection a body corporate and politic to be known as the "Board of Unemployment Fund Financing". The powers of the board shall be vested in five board members who shall be the governor, lieutenant governor, attorney general, director of the department of labor, and the commissioner of administration. The board shall have all powers necessary to effectuate its purposes including, without limitation, the power to provide a seal, keep records of its proceedings, provide for professional services. The governor shall serve as chair, the lieutenant governor shall serve as vice chair, and the commissioner of administration shall serve as secretary. Staff support for the board shall be provided by the commissioner of administration;

(b) Notwithstanding the provisions of any other law to the contrary:

a. No officer or employee of this state shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of an appointment as a board member or for his or her service to the board;

b. Board members shall receive no compensation for the performance of their duties under this subsection, but each commissioner shall be reimbursed from the funds of the commission for his or her actual and necessary expenses incurred in carrying out his or her official duties under this subsection.

(c) In the event that any of the board members or officers of the board whose signatures or facsimile signatures appear on any credit instrument shall cease to be board members or officers before the delivery of such credit instrument, their signatures or facsimile signatures shall be valid and sufficient for all purposes as if such board members or officers had remained in office until delivery of such credit instrument.

(d) Neither the board members executing the credit instruments of the board nor any other board members shall be subject to any personal liability or accountability by reason of the issuance of the credit instruments.

(4) The board is authorized, by offering for public negotiated sale, to issue, sell, and deliver credit instruments, bearing interest at a fixed or variable rate as shall be determined by the board, which shall mature no later than three years after issuance, in the name of the board in an amount determined by the board not to exceed a total of four hundred fifty million dollars, less the principal amount of any financing agreement entered into under subdivision (17) of this subsection, for the purposes set forth in subdivision (1) of this subsection. Such credit instrument may only be issued upon the approval of a resolution authorizing such issuance by a simple majority of the members of the board, with no other proceedings required. No credit instrument may be outstanding hereunder after January 15, 2008.

(5) The board shall provide for the payment of the principal of the credit instruments, any redemption premiums, the interest on the credit instruments, and the costs attributable to the credit instruments being issued or outstanding as provided in this subsection and in section 288.310. Unless the board directs otherwise, the credit instrument shall be repaid in the same time frame and in the same amounts as would be required for loans issued pursuant to 42 U.S.C. Section 1321; however, in no case shall credit instruments be outstanding for more than three years and further provided that no credit instruments shall be outstanding hereunder after January 15, 2008.

(6) The board may irrevocably pledge money received from the credit instrument and financing agreement repayment surcharge under subsection 3 of section 288.128, and other money legally available to it, which is deposited in an account created for credit instrument repayment in the special employment security fund, provided that the general assembly has first appropriated moneys received from such surcharge and other moneys deposited in such account for the payment of credit instruments.

(7) Credit instruments issued under this section shall not constitute debts of this state or of the board or any agency, political corporation, or political subdivision of this state and are not a pledge of the faith and credit of this state, the board or of any of those governmental entities and shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The credit instruments are payable only from revenue provided for under this chapter. The credit instruments shall contain a statement to the effect that:

(a) Neither the state nor the board nor any agency, political corporation, or political subdivision of the state shall be obligated to pay the principal or interest on the credit instruments except as provided by this section; and

(b) Neither the full faith and credit nor the taxing power of the state nor the board nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal, premium, if any, or interest on the credit instruments.

(8) The board pledges and agrees with the owners of any credit instruments issued under this section that the state will not limit or alter the rights vested in the board to fulfill the terms of any agreements made with the owners or in any way impair the rights and remedies of the owners until the credit instruments are fully discharged.

(9) The board may prescribe the form, details, and incidents of the credit instruments and make such covenants that it its judgment are advisable or necessary to properly secure the payment thereof. If such credit instruments shall be authenticated by the bank or trust company acting as registrar for such by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board executing and attesting such credit instruments, may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278 RSMo, when duly authorized by resolution of the

board, and the provisions of section 108.175, RSMo, shall not apply to such credit instruments. The board may provide for the flow of funds and the establishment and maintenance of separate accounts within the special employment security fund, including the interest and sinking account, the reserve account, and other necessary accounts, and may make additional covenants with respect to the credit instruments in the documents authorizing the issuance of credit instruments including refunding credit instruments. The resolutions authorizing the issuance of credit instruments may also prohibit the further issuance of credit instruments or other obligations payable from appropriated moneys or may reserve the right to issue additional credit instruments to be payable from appropriated moneys on a parity with or subordinate to the lien and pledge in support of the credit instruments being issued and may contain other provisions and covenants as determined by the board, provided that any terms, provisions or covenants provided in any resolution of the board shall not be inconsistent with the provisions of this section.

(10) The board may issue credit instruments to refund all or any part of the outstanding credit instruments issued under this section including matured but unpaid interest. As with other credit instruments issued under this section, such refunding credit instruments may bear interest at a fixed or variable rate as determined by the board. No such refunding credit instruments may be outstanding for more than three years or after January 15, 2008.

(11) The credit instruments issued by the board, any transaction relating to the credit instruments, and profits made from the sale of the credit instruments are free from taxation by the state or by any municipality, court, special district, or other political subdivision of the state.

(12) As determined necessary by the board the proceeds of the credit instruments less the cost of issuance shall be placed in the state's unemployment compensation fund and may be used for the purposes for which that fund may otherwise be used. If those net proceeds are not placed immediately in the unemployment compensation fund they shall be held in the special employment security fund in an account designated for that purpose until they are transferred to the unemployment compensation fund provided that the proceeds of refunding credit instruments may be placed in an escrow account or such other account or instrument as determined necessary by the board.

(13) The board may enter into any contract or agreement deemed necessary or desirable to effectuate cost effective financing hereunder. Such agreements may include credit enhancement, credit support, or interest rate agreements including, but not limited to, arrangements such as municipal bond insurance; surety bonds; tax anticipation notes; liquidity facilities; forward agreements; tender agreements; remarketing agreements; option agreements; interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and purchase agreements. Any fees or costs associated with such agreements shall be deemed administrative expenses for the purposes of calculating the credit instrument and financing agreement repayment surcharge under subsection 3 of section 288.128. The board, with consideration of all other costs being equal, shall give preference to Missouri headquartered financial institutions, or those out-of-state-based financial institutions with at least one hundred Missouri employees.

(14) To the extent this section conflicts with other laws the provisions of this section prevail. This section shall not be subject to the provisions of sections 23.250 to 23.298, RSMo.

(15) If the United States Secretary of Labor holds that a provision of this subsection or of any provision related to the levy or use of the credit instrument and financial agreement repayment surcharge does not conform with a federal statute or would result in the loss to the state of any federal funds otherwise available to it the board, in cooperation with the department of labor and industrial relations, may administer this subsection, and other provisions related to the credit instrument and financial agreement

repayment surcharge, to conform with the federal statute until the general assembly meets in its next regular session and has an opportunity to amend this subsection or other sections, as applicable.

(16) (a) As used in this subdivision the term "lender" means any state or national bank.

(b) The board is authorized to enter financial agreements with any lender for the purposes set forth in subdivision (1) of this subsection, or to refinance other financial agreements in whole or in part, upon the approval of the simple majority of the members of the board of a resolution authorizing such financial agreements, with no other proceedings required. The total amount of the outstanding obligation under all such agreements shall not exceed the difference of four hundred fifty million dollars and the principal amount of credit instruments issued under this subsection. In no instance shall the outstanding obligation under any financial agreement continue for more than three years, and no such financial agreement, whether entered into for refinancing purposes or otherwise, shall be outstanding after January 15, 2008. Repayment of obligations to lenders shall be made from the special employment security fund, section 288.310, subject to appropriation by the general assembly.

(c) Financial agreements entered into under this subdivision shall not constitute debts of this state or of the board or any agency, political corporation, or political subdivision of this state and are not a pledge of the faith and credit of this state, the board or of any of those governmental entities and shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The financial agreements are payable only from revenue provided for under this chapter. The financial agreements shall contain a statement to the effect that:

a. Neither the state nor the board nor any agency, political corporation, or political subdivision of the state shall be obligated to pay the principal or interest on the financial agreements except as provided by this section; and

b. Neither the full faith and credit nor the taxing power of the state nor the board nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal, premium, if any, or interest on the financial agreements.

(d) Neither the board members executing the financial agreements nor any other board members shall be subject to any personal liability or accountability by reason of the execution of such financial agreements.

(e) The board may prescribe the form, details and incidents of the financing agreements and make such covenants that in its judgment are advisable or necessary to properly secure the payment thereof provided that any terms, provisions or covenants provided in any such financing agreement shall not be inconsistent with the provisions of this section. If such financing agreements shall be authenticated by the bank or trust company acting as registrar for such by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board executing and attesting such financing agreements, may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278 RSMo, when duly authorized by resolution of the board and the provisions of section 108.175, RSMo, shall not apply to such financing agreements.

(17) Nothing in this chapter shall be construed to prohibit the officials of the state from borrowing from the government of the United States in order to pay unemployment benefits under subsection 1 of this section or otherwise.

(18) The commission may issue credit instruments to refund all or any part of the outstanding borrowing issued under this section including matured but unpaid interest.

(19) The credit instruments issued by the commission, any transaction relating to the credit instruments, and profits made from the issuance of credit are free from taxation by

the state or by any municipality, court, special district, or other political subdivision of the state.

3. In event of the suspension of this law, any unobligated funds in the unemployment compensation fund, and returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be held in custody by the treasurer and under supervision of the division until the legislature shall provide for the disposition thereof. In event no disposition is made by the legislature at the next regular meeting subsequent to suspension of said law, then all unobligated funds shall be returned ratably to those who contributed thereto.

288.380. VOID AGREEMENTS — OFFENSES, PENALTIES — DEDUCTIONS OF SUPPORT OBLIGATIONS AND UNCOLLECTED OVERISSUANCE OF FOOD STAMPS — OFFSET FOR OVERPAYMENT OF BENEFITS BY OTHER STATES, WHEN — DEFINITIONS. — 1. Any agreement by a worker to waive, release, or commute such worker's rights to benefits or any other rights pursuant to this chapter, or pursuant to an employment security law of any other state or of the federal government shall be void. Any agreement by a worker to pay all or any portion of any contributions required shall be void. No employer shall directly or indirectly make any deduction from wages to finance the employer's contributions required from him or her, or accept any waiver of any right pursuant to this chapter by any individual in his or her employ.

2. No employing unit or any agent of an employing unit or any other person shall make a false statement or representation knowing it to be false, nor shall knowingly fail to disclose a material fact to prevent or reduce the payment of benefits to any individual, nor to avoid becoming or remaining an employer, nor to avoid or reduce any contribution or other payment required from any employing unit, nor shall willfully fail or refuse to make any contributions or payments nor to furnish any required reports nor to produce or permit the inspection or copying of required records. Each such requirement shall apply regardless of whether it is a requirement of this chapter, of an employment security law of any other state or of the federal government.

3. No person shall make a false statement or representation knowing it to be false or knowingly fail to disclose a material fact, to obtain or increase any benefit or other payment pursuant to this chapter, or under an employment security law of any other state or of the federal government either for himself or herself or for any other person.

4. No person shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in such person's power so to do in obedience to a subpoena of the director, the commission, an appeals tribunal, or any duly authorized representative of any one of them.

5. No individual claiming benefits shall be charged fees of any kind in any proceeding pursuant to this chapter by the division, or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the division or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the division.

6. No employee of the division or any person who has obtained any list of applicants for work or of claimants for or recipients of benefits pursuant to this chapter shall use or permit the use of such lists for any political purpose.

7. Any person who shall willfully violate any provision of this chapter, or of an employment security law of any other state or of the federal government or any rule or regulation, the observance of which is required under the terms of any one of such laws, shall upon conviction be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, and each such violation or each day such violation continues shall be deemed to be a separate offense.

8. In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts

business, upon application by the director, the commission, an appeals tribunal, or any duly authorized representative of any one of them shall have jurisdiction to issue to such person an order requiring such person to appear before the director, the commission, an appeals tribunal or any duly authorized representative of any one of them, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

9. (1) Any individual or employer who receives or denies unemployment benefits by intentionally misrepresenting, misstating, or failing to disclose any material fact has committed fraud. After the discovery of facts indicating fraud, a deputy shall make a written determination that the individual obtained or denied unemployment benefits by fraud and that the individual must promptly repay the unemployment benefits to the fund. In addition, the deputy shall assess a penalty equal to twenty-five percent of the amount fraudulently obtained or denied. If division records indicate that the individual or employer had a prior established overpayment or record of denial due to fraud, the deputy shall, on the present overpayment or determination, assess a penalty equal to one hundred percent of the amount fraudulently obtained.

(2) Unless the individual or employer within thirty calendar days after notice of such determination of overpayment by fraud is either delivered in person or mailed to the last known address of such individual or employer files an appeal from such determination, it shall be final. Proceedings on the appeal shall be conducted in accordance with section 288.190.

(3) If the individual or employer fails to repay the unemployment benefits and penalty, assessed as a result of the deputy's determination that the individual or employer obtained or denied unemployment benefits by fraud, such sum shall be collectible in the manner provided in sections 288.160 and 288.170 for the collection of past due contributions. If the individual or employer fails to repay the unemployment benefits that the individual or employer denied or obtained by fraud, the division may offset from any future unemployment benefits otherwise payable the amount of the overpayment, or may take such steps as are necessary to effect payment from the individual or employer. Future benefits may not be used to offset the penalty due. Money received in repayment of fraudulently obtained or denied unemployment benefits and penalties shall first be applied to the unemployment benefits overpaid, then to the penalty amount due. Payments made toward the penalty amount due shall be credited to the special employment security fund.

(4) If fraud or evasion on the part of any employer is discovered by the division, the employer will be subject to the fraud provisions of subsection 4 of section 288.160.

(5) The provisions of this subsection shall become effective July 1, 2005.

10. An individual who willfully fails to disclose amounts earned during any week with respect to which benefits are claimed by him or her, willfully fails to disclose or has falsified as to any fact which would have disqualified him or her or rendered him or her ineligible for benefits during such week, or willfully fails to disclose a material fact or makes a false statement or representation in order to obtain or increase any benefit pursuant to this chapter, shall forfeit all of his or her benefit rights, and all of his or her wage credits accrued prior to the date of such failure to disclose or falsification shall be canceled, and any benefits which might otherwise have become payable to him or her subsequent to such date based upon such wage credits shall be forfeited; except that, the division may, upon good cause shown, modify such reduction of benefits and cancellation of wage credits. It shall be presumed that such failure or falsification was willful in any case in which an individual signs and certifies a claim for benefits and fails to disclose or falsifies as to any fact relative to such claim.

[10.] 11. (1) Any assignment, pledge, or encumbrance of any rights to benefits which are or may become due or payable pursuant to this chapter shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for

the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or the individual's spouse or dependents during the time such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void; except that this section shall not apply to:

(a) Support obligations, as defined pursuant to paragraph (g) of subdivision (2) of this subsection, which are being enforced by a state or local support enforcement agency against any individual claiming unemployment compensation pursuant to this chapter; or

(b) Uncollected overissuances (as defined in section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons;

(2) (a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes support obligations, as defined pursuant to paragraph (g) of this subdivision or owes uncollected overissuances of food stamp coupons (as defined in section 13(c)(1) of the Food Stamp Act of 1977). If any such individual discloses that he or she owes support obligations or uncollected overissuances of food stamp coupons, and is determined to be eligible for unemployment compensation, the division shall notify the state or local support enforcement agency enforcing the support obligation or the state food stamp agency to which the uncollected food stamp overissuance is owed that such individual has been determined to be eligible for unemployment compensation;

(b) The division shall deduct and withhold from any unemployment compensation payable to an individual who owes support obligations as defined pursuant to paragraph (g) of this subdivision or who owes uncollected food stamp overissuances:

a. The amount specified by the individual to the division to be deducted and withheld pursuant to this paragraph if neither subparagraph b. nor subparagraph c. of this paragraph is applicable; or

b. The amount, if any, determined pursuant to an agreement submitted to the division pursuant to Section 454(20)(B)(i) of the Social Security Act by the state or local support enforcement agency, unless subparagraph c. of this paragraph is applicable; or the amount (if any) determined pursuant to an agreement submitted to the state food stamp agency pursuant to Section 13(c)(3)(a) of the Food Stamp Act of 1977; or

c. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to properly served legal process, as that term is defined in Section 459(i) of the Social Security Act; or any amount otherwise required to be deducted and withheld from the unemployment compensation pursuant to Section 13(c)(3)(b) of the Food Stamp Act of 1977;

(c) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall be paid by the division to the appropriate state or local support enforcement agency or state food stamp agency;

(d) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall, for all purposes, be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local support enforcement agency in satisfaction of the individual's support obligations or to the state food stamp agency to which the uncollected overissuance is owed as repayment of the individual's uncollected overissuance;

(e) For purposes of paragraphs (a), (b), (c), and (d) of this subdivision, the term "unemployment compensation" means any compensation payable pursuant to this chapter, including amounts payable by the division pursuant to an agreement pursuant to any federal law providing for compensation, assistance, or allowances with respect to unemployment;

(f) Deductions will be made pursuant to this section only if appropriate arrangements have been made for reimbursement by the state or local support enforcement agency, or the state food stamp agency, for the administrative costs incurred by the division pursuant to this section which

are attributable to support obligations being enforced by the state or local support enforcement agency or which are attributable to uncollected overissuances of food stamp coupons;

(g) The term "support obligations" is defined for purposes of this subsection as including only obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services pursuant to Part D of Title IV of the Social Security Act;

(h) The term "state or local support enforcement agency", as used in this subsection, means any agency of a state, or political subdivision thereof, operating pursuant to a plan described in paragraph (g) of this subdivision;

(i) The term "state food stamp agency" as used in this subsection, means any agency of a state, or political subdivision thereof, operating pursuant to a plan described in the Food Stamp Act of 1977;

(j) The director may prescribe the procedures to be followed and the form and contents of any documents required in carrying out the provisions of this subsection;

(k) The division shall comply with the following priority when deducting and withholding amounts from any unemployment compensation payable to an individual:

a. Before withholding any amount for child support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold from any unemployment compensation payable to an individual the amount, as determined by the division, owed pursuant to subsection 11 or 12 of this section;

b. If, after deductions are made pursuant to subparagraph a. of paragraph (k) of this subdivision, an individual has remaining unemployment compensation amounts due and owing, and the individual owes support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold any remaining unemployment compensation amounts for application to child support obligations owed by the individual;

c. If, after deductions are made pursuant to subparagraphs a. and b. of paragraph (k) of this subdivision, an individual has remaining unemployment compensation amounts due and owing, and the individual owes uncollected overissuances of food stamp coupons, the division shall deduct and withhold any remaining unemployment compensation amounts for application to uncollected overissuances of food stamp coupons owed by the individual.

[11.] **12.** Any person who, by reason of the nondisclosure or misrepresentation by such person or by another of a material fact, has received any sum as benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's case, or while he or she was disqualified from receiving benefits, shall, in the discretion of the division, either be liable to have such sums deducted from any future benefits payable to such person pursuant to this chapter or shall be liable to repay to the division for the unemployment compensation fund a sum equal to the amounts so received by him or her, and such sum shall be collectible in the manner provided in sections 288.160 and 288.170 for the collection of past due contributions.

[12.] **13.** Any person who, by reason of any error or omission or because of a lack of knowledge of material fact on the part of the division, has received any sum of benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's case, or while such person was disqualified from receiving benefits, shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190 have such sums deducted from any further benefits payable to such person pursuant to this chapter, provided that the division may elect not to process such possible overpayments where the amount of same is not over twenty percent of the maximum state weekly benefit amount in effect at the time the error or omission was discovered. Recovering overpaid unemployment compensation benefits which are a result of error or omission on the part of the claimant shall be pursued by the division through billing and setoffs against state income tax refunds.

[13.] **14.** Any person who has received any sum as benefits under the laws of another state, or under any unemployment benefit program of the United States administered by another state

while any conditions for the receipt of benefits imposed by the law of such other state were not fulfilled in his or her case, shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190 have such sums deducted from any further benefits payable to such person pursuant to this chapter, but only if there exists between this state and such other state a reciprocal agreement under which such entity agrees to recover benefit overpayments, in like fashion, on behalf of this state.

288.395. FRAUD OR MISREPRESENTATION, PENALTIES. — Any person or entity perpetrating a fraud or misrepresentation under this chapter for which a penalty has not herein been specifically provided, shall be guilty of a class A misdemeanor and, in addition, shall be liable to this state for a civil penalty not to exceed the value of the fraud. Any person or entity who has previously pled guilty to or has been found guilty of perpetrating a fraud or misrepresentation under this chapter and who subsequently violated any such provisions shall be guilty of a class D felony.

288.397. REPORT ON SUMMARY OF CHANGES, DIVISION TO PROVIDE. — The division shall send on or before September 30, 2004, to all employing units a report containing a summary of changes enacted in this act including but not limited to changes in the tax rate, contribution rate, taxable wage base, temporary solvency charges, benefit or eligibility charges, and other pertinent information to enable the employing units to comply with the changes made.

288.398. CONTRACTS WITH CONSUMER REPORTING AGENCIES AUTHORIZED — INFORMATION LIMITED — PRIVACY RULES APPLY — WRITTEN CONSENT, CONTENTS — USE OF INFORMATION LIMITED, VERIFIED BY CONSUMER REPORTING AGENCY — CONFIDENTIALITY SAFEGUARDS REQUIRED — NONCOMPLIANCE, LIABILITY — INFORMATION OBTAINED UNDER FALSE PRETENSES, PENALTY — DISPUTES. — 1. The division of employment security may contract with one or more consumer reporting agencies, with preference given to those which maintain offices within the state of Missouri, to provide secure electronic access to information provided in the quarterly wage report to the division of employment security by employing units. The consumer reporting agency shall be limited to use of such information to those permitted under Section 604 of the federal Fair Credit Reporting Act 15 U.S.C. 1681b).

2. The information provided to a consumer reporting agency shall be limited to the amount of wages reported by each employing unit, with the employing unit's name and address, for each of or up to the last eight quarters. For the purposes of this section, "consumer reporting agency" has the meaning assigned by Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681f).

3. The information is subject to the privacy rules of this State and the federal Fair Credit Reporting Act in addition to this section. The consumer reporting agency shall require that any user of the information shall, prior to obtaining the wage report information, obtain a written consent from the individual to whom that wage report information pertains.

4. The written consent shall prominently contain language specifying the following:

- (1) The consent to disclose is voluntary and refusal to consent to disclosure of state wage information shall not be the basis for the denial of credit;
- (2) If consent is granted, the information shall be released to specified parties;
- (3) Authorization by the individual is necessary for the release of wage and employment history information;
- (4) The specific application or transaction for the sole purpose of which release is made;
- (5) Division of employment security files containing wage and employment history information submitted by employers may be accessed; and

(6) The identity and address of parties authorized to receive the released information.

5. The consumer reporting agency shall require that the information released shall be used only to verify the accuracy of the wage or employment information previously provided by an individual in connection with a specific transaction to satisfy its user's standard underwriting requirements or those imposed upon the user, and to satisfy user's obligations, under applicable state or federal fair credit reporting laws.

6. The division of employment security shall establish minimum audit, security, net worth, and liability insurance standards, technological requirements, any other terms and conditions deemed necessary in the discretion of the division to safeguard the confidentiality of the information and to otherwise serve the public interest. The division shall not pay any costs associated with the establishment or maintenance of the access provided for by this subsection, including but not limited to the costs of any audits of the consumer reporting agency or users by the division. The division may void any contract authorized by this section if the contractor is not complying with this section. Except in cases of willful and wanton misconduct, the state and division is immune from any liability in connection with information provided under this section, including but not limited to liability with regard to the accuracy or use of the information. Any fees received by the division of employment security from a consumer reporting agency pursuant to this section shall be deposited in the Missouri unemployment insurance trust fund and dedicated solely for benefit payments.

7. Any person or entity who willfully fails to comply with any requirement imposed under this subsection with respect to any consumer is liable in Missouri state courts to that consumer to the same extent as provided for in Section 616 of the Federal Fair Credit Reporting Act (15 U.S.C. 1681n).

8. A consumer may bring an action in a circuit court to enjoin a violation of this act.

9. Any person who knowingly and willfully obtains information pursuant to this subsection from a consumer reporting agency under false pretenses shall be punished to the same extent as provided under Section 619 of the federal Fair Credit Reporting Act (15 U.S.C. 1681q).

10. If the completeness or accuracy of any item of information in a consumer's file at a consumer reporting agency obtained under this subsection is disputed, the dispute resolution shall be handled according to Section 611 of the Federal Fair Credit Reporting Act (15 U.S.C. 1681l).

288.500. SHARED WORK PROGRAM CREATED — DEFINITIONS — PLAN, REQUIREMENTS — PLAN DENIED, SUBMISSION OF NEW PLAN, WHEN — CONTRIBUTION BY EMPLOYER, HOW COMPUTED — BENEFITS. — 1. There is created under this section a voluntary "Shared Work Unemployment Compensation Program". In connection therewith, the division may adopt rules and establish procedures, not inconsistent with this section, which are necessary to administer this program.

2. As used in this section, the following terms mean:

(1) "Affected unit", a specified department, shift, or other unit of three or more employees which is designated by an employer to participate in a shared work plan;

(2) "Division", the division of employment security;

(3) "Fringe benefit", health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer;

(4) "Normal weekly hours of work", as to any individual, the lesser of forty hours or the average obtained by dividing the total number of hours worked per week in the preceding twelve-week period by the number twelve;

(5) "Participating employee", an employee who works a reduced number of hours under a shared work plan;

(6) "Participating employer", an employer who has a shared work plan in effect;

(7) "Shared work benefit", an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan;

(8) "Shared work plan", a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work;

(9) "Shared work unemployment compensation program", a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

3. An employer who wishes to participate in the shared work unemployment compensation program established under this section shall submit a written shared work plan in a form acceptable to the division for approval. As a condition for approval by the division, a participating employer shall agree to furnish the division with reports relating to the operation of the shared work plan as requested by the division. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the division and shall report the findings to the division.

4. The division may approve a shared work plan if:

(1) The employer has filed all reports required to be filed under this chapter for all past and current periods and has paid all contributions due for all past and current periods;

(2) The shared work plan applies to and identifies a specified affected unit;

(3) The employees in the affected unit are identified by name and Social Security number;

(4) The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than twenty percent and not more than forty percent;

(5) The shared work plan applies to at least ten percent of the employees in the affected unit;

(6) The shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit; and

(7) The employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least ten percent of the employees in the affected unit and that would result in an equivalent reduction in work hours.

5. If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan shall be approved in writing by the collective bargaining agent.

6. No shared work plan which will subsidize seasonal employers during the off-season or subsidize employers, at least fifty percent of the employees of which have normal weekly hours of work equaling thirty-two hours or less, shall be approved by the division. **No shared work plan benefits will be initiated for pay periods when the reduced hours reflect holiday earnings already committed to be paid by the employer.**

7. The division shall approve or deny a shared work plan not later than the thirtieth day after the day on which the shared work plan is received by the division. The division shall approve or deny a plan in writing. If the division denies a plan, the division shall notify the employer of the reasons for the denial. Approval or denial of a plan by the division shall be final and such determination shall be subject to review in the manner otherwise provided by law. If approval of a plan is denied by the division, the employer may submit a new plan to the division for consideration no sooner than forty-five calendar days following the date on which the division disapproved the employer's previously submitted plan.

8. The division may revoke approval of a shared work plan and terminate the plan if it determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program, or if it is determined by the division that

the approval of the shared work plan was based, in whole or in part, upon information contained in the plan which was either false or substantially misleading.

9. Each shared work plan approved by the division shall become effective on the first day of the week in which it is approved by the division or on a later date as specified in the shared work plan. Each shared work plan approved by the division shall expire on the last day of the twelfth full calendar month after the effective date of such shared work plan.

10. An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as originally approved by the division. The employer shall report the changes made to the plan in writing to the division at least seven days before implementing such changes. The division shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection 4 of this section. The approval of a modified shared work plan shall not, under any circumstances, affect the expiration date originally set for the shared work plan. If modifications cause the shared work plan to fail to meet the requirements for approval, the division shall deny approval of the modifications as provided in subsection 7 of this section.

11. Notwithstanding any other provisions of this chapter, an individual is unemployed for the purposes of this section in any week in which the individual, as an employee in an affected unit, works less than his normal weekly hours of work in accordance with an approved shared work plan in effect for that week.

12. An individual who is otherwise entitled to receive regular unemployment insurance benefits under this chapter shall be eligible to receive shared work benefits with respect to any week in which the division finds that:

(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) Notwithstanding the provisions of subdivision (2) of subsection 1 of section 288.040, the individual is able to work, available for work and works all available hours with the participating employer;

(3) The individual's normal weekly hours of work have been reduced by at least twenty percent but not more than forty percent, with a corresponding reduction in wages; and

(4) The individual has served a "waiting week" as defined in section 288.030.

13. A waiting week served under the provisions of subdivision (3) of subsection 1 of section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of this section and a waiting week served under the provisions of subdivision (4) of subsection 12 of this section shall serve to meet the requirements of section 288.040. [If the waiting week becomes payable, it shall be paid according to the law governing the program under which it was served.] Notwithstanding any other provisions of this chapter, an individual who files a new initial claim during the pendency of the twelve-month period in which a shared work plan is in effect shall serve a waiting week whether or not the individual has served a waiting week under this subsection.

14. The division shall not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of this chapter that relates to availability for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer under the plan.

15. The division shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment less any deductible amounts under this chapter except wages received from any employer, multiplied by the full percentage of reduction in the individual's hours as set forth in the employer's shared work plan. If the shared work benefit amount calculated under this subsection is not a multiple of one dollar, the division shall round the amount so calculated to the next lowest multiple of one dollar. An individual shall be ineligible for shared work benefits for any week in which the individual performs paid work for

the participating employer in excess of the reduced hours established under the shared work plan.

16. An individual shall not be entitled to receive shared work benefits and regular unemployment compensation benefits in an aggregate amount which exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided under section 288.038. Notwithstanding any other provisions of this chapter, an individual shall not be eligible to receive shared work benefits for more than twenty-six calendar weeks during the twelve-month period of the shared work plan. No week shall be counted as a week of unemployment for the purposes of this subsection unless it occurs within the twelve-month period of the shared work plan.

17. Notwithstanding any other provision of this chapter, all benefits paid under a shared work plan, which are chargeable to the participating employer or any other base period employer of a participating employee shall be charged to the account of the participating employer under the plan.

18. An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under section 288.062 and is entitled to receive extended benefits under section 288.062 if the individual is otherwise eligible under that section.

288.501. MISSOURI STATE UNEMPLOYMENT COUNCIL CREATED, MEMBERS, MEETINGS, TERMS, DUTIES — PROPOSALS SUBMITTED TO DIVISION, WHEN — ACCESS TO RECORDS — OUTSIDE STUDY AUTHORIZED. — 1. There is hereby created a "Missouri State Unemployment Council". The council shall consist of nine appointed voting members and two appointed nonvoting members. All appointees shall be persons whose training and experience qualify them to deal with the difficult problems of unemployment compensation, particularly legal, accounting, actuarial, economic, and social aspects of unemployment compensation.

(1) Three voting members shall be appointed to the council by the governor. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employers. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employees. One voting member shall be appointed to represent the public interest separate from employee or employer representation.

(2) Three voting members and one nonvoting member shall be appointed to the council by the speaker of the house of representatives. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employers that employ twenty or less employees. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employees. One voting member shall be appointed to represent the public interest separate from employee or employer representation. One nonvoting member shall be appointed from the house of representatives.

(3) Three voting members and one nonvoting member shall be appointed to the council by the president pro tem of the senate. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employers. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employees. One voting member shall be appointed to represent the public interest separate from employee or employer representation. One nonvoting member shall be appointed from the senate.

2. The council shall organize itself and select a chairperson or co-chairpersons and other officers from the nine voting members. Six voting members shall constitute a quorum and the council shall act only upon the affirmative vote of at least five of the voting members. The council shall meet no less than four times yearly. Members of the council shall serve without compensation, but are to be reimbursed the amount of actual expenses. Actual expenses shall be paid from the special employment security fund under section 288.310.

3. The division shall provide professional and clerical assistance as needed for regularly scheduled meetings.

4. Each nonvoting member shall serve for a term of four years or until he or she is no longer a member of the general assembly whichever occurs first. A nonvoting member's term shall be a maximum of four years. Each voting member shall serve for a term of three years. For the initial appointment, the governor-appointed employer representative, the speaker of the house-appointed employee representative, and the president pro tem of the senate-appointed public interest representative shall serve an initial term of one year. For the initial appointment, the governor-appointed employee representative, the speaker of the house-appointed public interest representative, and the president pro tem of the senate-appointed employer representative shall serve an initial term of two years. At the end of a voting member's term he or she may be reappointed; however, he or she shall serve no more than two terms excluding the initial term for a maximum of eight years.

5. The council shall advise the division in carrying out the purposes of this chapter. The council shall submit annually by January fifteenth to the governor and the general assembly its recommendations regarding amendments of this chapter, the status of unemployment insurance, the projected maintenance of the solvency of unemployment insurance, and the adequacy of unemployment compensation.

6. The council shall present to the division every proposal of the council for changes in this chapter and shall seek the division's concurrence with the proposal. The division shall give careful consideration to every proposal submitted by the council for legislative or administrative action and shall review each legislative proposal for possible incorporation into department of labor and industrial relations recommendations.

7. The council shall have access to only the records of the division that are necessary for the administration of this chapter and to the reasonable services of the employees of the division. It may request the director or any of the employees appointed by the director or any employee subject to this chapter, to appear before it and to testify relative to the functioning of this chapter and to other relevant matters. The council may conduct research of its own, make and publish reports, and recommend to the division needed changes in this chapter or in the rules of the division as it considers necessary.

8. The council, unless prohibited by a concurrent resolution of the general assembly, shall be authorized to commission an outside study of the solvency, adequacy, and staffing and operational efficiency of the Missouri unemployment system. The study shall be conducted every five years, the first being conducted in fiscal year 2005. The study shall be funded subject to appropriation from the special employment security fund under section 288.310.

288.502. SEVERABILITY CLAUSE. — If any provision of this act is found by a court of competent jurisdiction to be invalid or unconstitutional it is the stated intent of the legislature that the legislature would have approved the remaining portions of the act, and the remaining portions of the act shall remain in full force and effect.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to reduce or avoid the need to borrow or obtain advances under 42 U.S.C., Section 1321, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 288.128, 288.310 and 288.330 of this Act shall be full force and effect upon passage and approval. The remaining provisions of this Act shall be in full force and effect January 1, 2005.

Approved July 1, 2004

HB 1284 [HCS HB 1284]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the definition of "salvage vehicle" and provides that salvage titles shall be negotiable with one reassignment on back by registered dealers or insurance companies.

AN ACT to repeal sections 301.010 and 301.217, RSMo, and to enact in lieu thereof two new sections relating to salvage motor vehicles.

SECTION

- A. Enacting clause.
- 301.010. Definitions.
- 301.217. Definitions — salvaged motor vehicle title may be issued, when, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.010 and 301.217, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 301.010 and 301.217, to read as follows:

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

- (1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control;
- (2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;
- (3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;
- (4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;
- (5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;
- (6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;
- (7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;
- (8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;
- (9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;
- (10) "Director" or "director of revenue", the director of the department of revenue;
- (11) "Driveaway operation", the movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of twenty-five miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and is not operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, does not have more than four axles and does not pull a trailer which has more than two axles. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding

any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(28) "Log truck", a vehicle which is not a local log truck and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(29) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(30) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(31) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(32) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(33) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(34) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(35) "Motorcycle", a motor vehicle operated on two wheels;

(36) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(37) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(38) "Municipality", any city, town or village, whether incorporated or not;

(39) "Nonresident", a resident of a state or country other than the state of Missouri;

(40) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(41) "Operator", any person who operates or drives a motor vehicle;

(42) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(43) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(44) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(45) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(46) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(47) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(48) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination;

(49) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(50) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which[.];

(a) **Has been damaged to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds seventy-five percent of the fair market value of the vehicle immediately preceding the time it was damaged;**

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it[, or];

(c) **Has been declared salvage** by an insurance company as a result of settlement of a claim for loss due to damage or theft; [or]

(d) [A vehicle,] Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. **Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;**

b. **Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and**

c. **Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;**

(51) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(52) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(53) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(54) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term "specially constructed motor vehicle" includes kit vehicles;

(55) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(56) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(57) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(58) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(59) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(60) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(61) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(62) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(63) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(64) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power,

or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(65) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(66) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.217. DEFINITIONS — SALVAGED MOTOR VEHICLE TITLE MAY BE ISSUED, WHEN, PROCEDURE. — 1. As used in sections 301.217 to 301.229, the following words and phrases mean:

(1) "Purchaser", the buyer of a salvage vehicle, including an insurance company for purposes of sections 301.217 to 301.229;

(2) "Salvage certificate of title", the title issued by the department of revenue as proof of ownership for a salvaged vehicle, and it shall not be acceptable for the purpose of registering a motor vehicle. The salvage title shall be negotiable with one reassignment on back by registered dealers **or insurance companies** only. The redeemed title shall be returned in its original form;

(3) "Salvage pool" or "salvage disposal sale", a scheduled sale at auction or by private bid of wrecked or repairable motor vehicles or trailers by insurance companies, underwriters, or dealers, either at retail or wholesale.

2. The department of revenue may issue a certificate of title for a salvaged motor vehicle at least twenty-five years old and if, in the judgment of the department of revenue it may be needed, require the applicant to file with the department of revenue a corporate surety bond in the form prescribed by the department and executed by the applicant, and executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

Approved July 2, 2004

HB 1285 [SS HS HCS HB 1285]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the provisions regarding car rental insurance.

AN ACT to repeal sections 226.092, 407.730 and 407.735, RSMo, and to enact in lieu thereof three new sections relating to car rental insurance.

SECTION

- A. Enacting clause.
- 226.092. Commission may provide automobile liability insurance when — self-insured and partial self-insured plans, when.
- 407.730. Definitions.
- 407.735. Business practices, nondeceptive — collision damage waiver, terms, conditions, notice required — damages, estimates, how made — remedies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 226.092, 407.730 and 407.735, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 226.092, 407.730 and 407.735, to read as follows:

226.092. COMMISSION MAY PROVIDE AUTOMOBILE LIABILITY INSURANCE WHEN — SELF-INSURED AND PARTIAL SELF-INSURED PLANS, WHEN. — The state highways and transportation commission is authorized, when considered by it to be in the public interest, to provide [as part compensation to the employee involved,] liability insurance covering the operation of [state-owned vehicles involved in the performance of operations of the] **all motor vehicles and equipment, including airplanes and boats, owned, leased, rented or operated pursuant to commission authorization and used in the performance of official commission or department business.** The commission is authorized to provide such insurance coverage for [its employees] **all authorized operators, as determined by the commission,** and the commission's liability by a plan of self-insurance **operated in accordance with commercial insurance industry standards for fleet vehicle coverage** or by a plan partially self-insured and partially insured by a contract of insurance **with an insurance company or by a plan fully insured by a contract of insurance** with an insurance company as the commission deems to be in the public interest. If the commission provides for a plan of self-insurance or partial self-insurance, it shall annually determine the amount of contribution to the plan required to pay all accrued and anticipated claims and the cost of administering the plan and shall include such amount in its budget request for contribution to the [highways and transportation commission automobile liability insurance] **commission's self-insurance** plan. The commission may contract for the services of such actuaries, consultants, and claims administrators as it deems necessary for the effective administration of a [self-insured automobile liability] **self-insurance** plan and is authorized to contract for excess insurance coverage with an insurance company authorized to write such coverage in this state. The immunity in tort actions of the [state and the state highways and transportation] commission shall not be in any way affected by this section.

407.730. DEFINITIONS. — As used in sections 407.730 to 407.748, the following terms mean:

- (1) "Authorized driver":
 - (a) The renter;
 - (b) The renter's spouse if the spouse is a licensed driver and satisfies the car rental company's minimum age requirement;
 - (c) The renter's employee or co-worker if they are engaged in business activity with the person to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's minimum age requirements;
 - (d) Any person who operates the vehicle during an emergency situation; and
 - (e) Any person expressly listed by the car rental company on the renter's contract as an authorized driver;
- (2) "Blackout date", any date on which an advertised price is totally unavailable to the public;
- (3) "Car rental company", any person or entity in the business of renting private passenger vehicles to the public;

[(2)] (4) "Clear and conspicuous", that the statement, representation or term being disclosed is of such size, color contrast, and audibility and is so presented as to be readily noticed and understood by the person to whom it is being disclosed. All language and terms should be used in accordance with their common or ordinary usage and meaning;

[(3)] (5) "Collision damage waiver", any product a consumer purchases from a car rental company in order to waive all or part of his [liability in the event of a collision, other damage to] **responsibility for damages**, or loss [due to theft] of, a rental vehicle;

[(4)] (6) "Limited time availability", that the advertised rental price is only available for a specific period of time or that the price is not available during certain blackout periods;

[(5)] (7) "Material restriction", a restriction, limitation or other requirement which significantly affects the price of, use of, or a consumer's financial responsibility for a rental car;

[(6)] (8) "Mandatory charge", any charge, fee, or surcharge consumers must generally pay in order to obtain or operate a rental vehicle;

(9) **"Car rental insurance", products and services that are offered in connection with and incidental to the rental of a motor vehicle under subdivision (10) of subsection 1 of section 375.786, RSMo. This definition of optional car rental insurance or any other definition of insurance shall not include collision damage waiver;**

(10) **"Rental agreement", any document or combination of documents, which, when read together and incorporated by reference to each other, relate to and establish the terms and conditions of the rental of a motor vehicle by an individual; or when such a combination of documents is entered into as part of any written master, corporate, group or individual agreement setting forth the terms and conditions governing the use of a rental car rented by a car rental company;**

(11) **"Master rental agreement", those documents used by a car rental company for expedited service to members in a program sponsored by the car rental company in which renters establish a profile and select preferences for rental needs which establish the terms and conditions governing the use of a rental car rented by a car rental company by a participant in a master rental agreement;**

[(7)] (12) "Advertisement", oral, written, graphic or pictorial statements made in the course of solicitation of business including, without limitation, any statement or representation made in a newspaper, magazine, **the car rental company's proprietary web site**, or other publication, or contained in any notice, sign, poster, display, circular, pamphlet, or letter which may collectively be called "print advertisements", or on radio or television, which may be referred to as "broadcast commercials".

407.735. BUSINESS PRACTICES, NONDECEPTIVE — COLLISION DAMAGE WAIVER, TERMS, CONDITIONS, NOTICE REQUIRED — DAMAGES, ESTIMATES, HOW MADE — REMEDIES. — 1. Any business practices utilized by car rental companies in furtherance of their business of renting vehicles to the public shall be nondeceptive, fair and shall not be unconscionable.

2. Any collision damage waiver product offered for sale to the public shall not contain any provisions that are deceptive, unfair or unconscionable. It is deceptive, unfair, and unconscionable to require a consumer to assume absolute liability for damage or loss up to the total value of a rental vehicle regardless of fault as a condition of the rental agreement, and then not include as part of any collision damage waiver product, a waiver of liability for any damage or loss which occurs as a result of the consumer's ordinary negligence, except where:

(1) The damage is caused intentionally by an authorized driver or as a result of his willful and wanton misconduct;

(2) The damage arises out of the authorized driver's operation of the vehicle while intoxicated or under the influence of any illegal or unauthorized drug;

(3) The rental transaction is based on fraudulent information supplied by the renter;

(4) The damage arises out of the use of the vehicle while committing or otherwise engaged in a criminal act in which the automobile usage is substantially related to the nature of the criminal activity;

(5) The damage arises out of the use of the vehicle to carry persons or property for hire;

(6) The damage occurs while the vehicle is operated by a person other than an authorized driver[. For the purposes of this subsection, "authorized driver" means the person to whom the vehicle is rented; the renter's spouse or other family members who are licensed drivers and satisfy the rental company's minimum age requirement; the renter's employer or co-worker if they are engaged in business activity with the person to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's minimum age requirement; any person who operates the vehicle during an emergency situation or while parking the vehicle at a commercial establishment; and any person expressly listed by the rental company on the rental agreement as an authorized driver] **as defined in section 407.730;**

(7) The damage arises out of the use of the vehicle outside of the United States unless such use is specifically authorized by the rental agreement;

(8) Towing or pushing anything or if operation of the vehicle on an unpaved road has resulted in damage or loss which is a direct result of the road or driving conditions;

(9) Loss due to the theft of the rental vehicle. However, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the **car** rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within twenty-four hours of learning of the theft and reasonably cooperates with the **car** rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the **car** rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

3. Any claim resulting from damage to or loss of a rental vehicle shall be reasonably and rationally related to the actual loss incurred. The **car** rental company shall not assert or collect any claim for physical or mechanical damage to or loss of a rental vehicle which exceeds: the actual cash value of the vehicle immediately before the loss less any proceeds from the vehicle's disposal after the loss, or the actual cost to repair the damaged vehicle including all discounts or price reductions, whichever is less. Such claim shall be based on an estimate of damage or repair invoice made by an independent appraisal company, an insurance company, or a repair facility that completed or would complete the repairs. A **car** rental company's charge for loss of use shall not exceed a reasonable estimate of the actual income lost.

4. It is a deceptive and unfair practice for a car rental company or employee to **knowingly and intentionally** misrepresent any **material** element of a rental agreement transaction [or to fail to disclose to consumers all material facts and restrictions applicable to the rental of a vehicle or in the sale of optional products or services] **including the sale of collision damage waiver and car rental insurance**. The company shall disclose **in the rental agreement** the extent of the consumer's liability for the vehicle and **applicable mileage limitations and charges**. **When the consumer elects the collision damage waiver or car rental insurance**, the price for collision damage waiver and [applicable mileage limitations and charges] **car rental insurance shall appear on the rental agreement. A car rental company shall not require the purchase of collision damage waiver or car rental insurance**. No car rental company shall sell **to a consumer** or offer to sell a consumer a collision damage waiver [product] **or car rental insurance** as a part of the rental agreement unless the car rental company [first] provides the consumer with the following written notice:

[NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE VEHICLE. BEFORE YOU DECIDE WHETHER TO PURCHASE

THE COLLISION DAMAGE WAIVER PRODUCT, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN VEHICLE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER PRODUCT IS NOT MANDATORY AND MAY BE DECLINED.] **COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE NOTICE: OUR CONTRACT OFFERS FOR AN ADDITIONAL CHARGE COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE PRODUCTS. BEFORE DECIDING WHETHER TO PURCHASE ANY OF THESE OPTIONAL PRODUCTS, YOU MAY WISH TO DETERMINE WHETHER YOUR PERSONAL INSURANCE OR CREDIT CARD PROVIDES YOU COVERAGE DURING THE RENTAL PERIOD. THE PURCHASE OF ANY OF THESE OPTIONAL PRODUCTS IS NOT REQUIRED TO RENT A VEHICLE.**

Such notice shall be made on the face of the rental agreement as part of the written contract[,] and shall be set apart in boldface type and in no smaller print than 10-point type, and shall include a space for the consumer to acknowledge his receipt of this notice. **This notice requirement shall be deemed satisfied if this written notice appears in materials furnished to a consumer during the enrollment process into a master rental agreement. This notice provision is deemed complied with for all consumers who have previously enrolled into a master rental agreement prior to the effective date of this statute and no further notice shall be required.**

5. The car rental company shall provide a notice at the rental office in the form of a sign, placard, or brochure that informs the consumer of the following:

- (1) The availability of collision damage waiver;
- (2) The availability of car rental insurance;
- (3) A statement that the purchase of collision damage waiver and/or car rental insurance is not required in order to rent.

The following language may be used to comply with the requirements of this section, but shall not be considered the exclusive language that may be used:

COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE NOTICE:

Our contract offers for an additional charge optional products which provide you protection during your rental, including:

1. **Collision Damage Waiver:** You are responsible for all damages to or loss of the rental vehicle. A Collision Damage Waiver will relieve you of responsibility for all or part of the damage to the rental vehicle that may occur during the rental period.

2. **Personal Accident Insurance:** Personal Accident Insurance provides accidental death and accident medical insurance that protects you during the rental period in or out of the rental vehicle and your passengers while in the rental vehicle.

3. **Personal Effects Coverage:** Personal Effects Coverage protects your possessions from loss or damage during the rental period.

4. **Liability Insurance:** Liability Insurance provides protection to cover injuries or death to third parties or damage to a third party's property if you are at fault in an accident with the rental vehicle during the rental period.

Before deciding to purchase any of these optional products, you may wish to determine whether your personal insurance or credit card provides you coverage during the rental period.

The purchase of any of these products is not required to rent a vehicle.

6. Car rental companies shall not place a hold against a consumer's credit limit or charge a consumer's credit card in a deceptive or unfair manner, and without full and complete disclosure of such practice.

7. The remedies for any violation by a car rental company of any provision of sections 407.730 to 407.735, or for any conduct, act, or practice prescribed by any

provisions of sections 407.730 to 407.735, shall be injunctive relief and monetary damages in an amount not to exceed fifty dollars for each violation. The aggregate amount of monetary damages which may be assessed against a car rental company for violations of any provisions of sections 407.730 to 407.735, or for any conduct, act, or practice prescribed by any provisions of sections 407.730 to 407.735, shall not exceed the sum of one hundred thousand dollars in the aggregate during any calendar year.

Approved July 9, 2004

HB 1288 [CCS SS SCS HCS HB 1288]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes laws related to manufacturer's contractual agreements.

AN ACT to repeal section 301.566, RSMo, and to enact in lieu thereof eight new sections relating to contractual agreements between manufacturers and other merchants.

SECTION

- A. Enacting clause.
- 301.566. Motor vehicle sales or shows held away from licensed place of business, allowed, when — off-site retail sale of vehicles, when — recreational vehicle dealer participation in recreational vehicle shows and vehicle exhibitions — out-of-state dealers, requirements.
- 407.1047. Compensation agreements between franchisors and franchisees engaged in sale of motorcycles and ATVs.
- 407.1360. Definitions.
- 407.1362. Dealership agreements, good cause needed to terminate or cancel.
- 407.1364. Notice of termination or cancellation, contents.
- 407.1366. Change in ownership, notice required.
- 407.1368. Repurchase required, when.
- 407.1370. Applicability.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.566, RSMo, is repealed and eight new sections enacted in lieu thereof, to be known as sections 301.566, 407.1047, 407.1360, 407.1362, 407.1364, 407.1366, 407.1368, and 407.1370, to read as follows:

301.566. MOTOR VEHICLE SALES OR SHOWS HELD AWAY FROM LICENSED PLACE OF BUSINESS, ALLOWED, WHEN — OFF-SITE RETAIL SALE OF VEHICLES, WHEN — RECREATIONAL VEHICLE DEALER PARTICIPATION IN RECREATIONAL VEHICLE SHOWS AND VEHICLE EXHIBITIONS — OUT-OF-STATE DEALERS, REQUIREMENTS. — 1. A motor vehicle dealer may participate in any motor vehicle show or sale and conduct sales of motor vehicles away from the dealer's usual, licensed place of business if either the requirements of subsection 2 or 3 of this section are met or the event is conducted for not more than ten days, and if a majority of the motor vehicle dealers within a class of dealers described pursuant to subsection 3 of section 301.550 in a city or town participate or are invited and have the opportunity to participate in the event, except that a recreational motor vehicle dealer classified in subdivision (5) of subsection 3 of section 301.550 may participate in such a show or sale even if a majority of recreational motor vehicle dealers in a city or town do not participate in the event. The department shall consider such events to be proper in all respects and as if each dealer participant was conducting business at the dealer's usual business location. Nothing contained in this section

shall be construed as applying to the sale of motor vehicles or trailers through either a wholesale motor vehicle auction or public motor vehicle auction.

2. Any person, partnership, corporation or association disposing of vehicles used and titled solely in its ordinary course of business as provided in section 301.570 may sell at retail such vehicles away from that person's bona fide established place of business, thus constituting an off-site sale, by adhering to each of the following conditions with regard to each and every off-site sale conducted:

(1) Have in effect a valid license, pursuant to sections 301.550 to 301.575, from the department for the sale of used motor vehicles;

(2) No off-site sale may exceed ten days in duration, and only one sale may be held per year, per county, in counties of the third and fourth classification;

(3) Pay to the motor vehicle commission fund, pursuant to section 301.560, a permit fee of two hundred fifty dollars for each off-site sale event;

(4) Advise the department, at least ten days prior to the sale, of the date, location and duration of each off-site sale;

(5) The sale of vehicles at off-site sales shall be limited to sales by a seller of vehicles used and titled solely in its ordinary course of business, and such sales shall be held in conjunction with a credit union and limited to members of the credit union, thus constituting a private sale to be advertised to members only;

(6) Off-site sales by a seller of vehicles used and titled solely in its ordinary course of business may also be held in conjunction with other financial institutions provided that any such sale event shall be held on the premises of the financial institution, and sales shall be limited to persons who were customers of the financial institution prior to the date of the sale event. Off-site sales held with such other financial institutions shall be limited to one sale per year per institution;

(7) The sale of motor vehicles which have the designation of the current model year, except discontinued models, is prohibited at off-site sales until subsequent model year designated vehicles of the same manufacture and model are offered for sale to the public.

3. A recreational vehicle dealer, as that term is defined in section 700.010, RSMo, who is licensed in another state may participate in recreational vehicle shows or exhibits with recreational vehicles within this state, in which less than fifty dealers participate as exhibitors with permission of the dealer's licensed manufacturer if all of the following conditions exist:

(1) The show or exhibition has a minimum of ten recreational vehicle dealers licensed as motor vehicle dealers in this state;

(2) More than fifty percent of the participating recreational vehicle dealers are licensed motor vehicle dealers in this state; and

(3) The state in which the recreational vehicle is licensed is a state contiguous to Missouri and the state permits recreational vehicle dealers licensed in Missouri to participate in recreational vehicle shows in such state pursuant to conditions substantially equivalent to the conditions which are imposed on dealers from such state who participate in recreational vehicle shows in Missouri.

4. A recreational vehicle dealer licensed in another state may participate in a vehicle show or exhibition in Missouri which has, when it opens to the public, at least fifty dealers displaying recreational vehicles if the show or exhibition is trade-oriented and is predominantly funded by recreational vehicle manufacturers. All of the participating dealers who are not licensed in Missouri shall be licensed as recreational vehicle dealers by the state of their residence.

5. A recreational vehicle dealer licensed in another state who intends to participate in a vehicle show or exhibition in this state, shall send written notification of such intended participation to the department of revenue at least thirty days prior to the vehicle show or exhibition. Upon receipt of such written notification, the department of revenue shall make a determination regarding compliance with the provisions of this section. If such recreational vehicle dealer would be unable to participate in the vehicle show or exhibition in this state pursuant to this section, the department of revenue shall notify the

recreational vehicle dealer at least fifteen days prior to the vehicle show or exhibition of the inability to participate in the vehicle show or exhibition in this state, a violation of this section shall result in a fine of one thousand dollars to be assessed by the department of revenue.

407.1047. COMPENSATION AGREEMENTS BETWEEN FRANCHISORS AND FRANCHISEES ENGAGED IN SALE OF MOTORCYCLES AND ATVs. — 1. The provisions of this section shall apply to franchisors and franchisees engaged in the sale of motorcycles and all-terrain vehicles.

2. Each franchisor shall specify in writing to each of its franchisees in this state the franchisee's obligations for preparation, delivery, and warranty service on its products. The franchisor shall compensate the franchisee for warranty service required of the franchisee by the franchisor.

3. The franchisor shall provide the franchisee with the schedule of compensation to be paid to the franchisee for parts, work, and service, and the time allowance for the performance of the work and service. The schedule of compensation shall include reasonable compensation for diagnostic work, as well as repair service and labor. Time allowances for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work performed. In the determination of what constitutes reasonable compensation under this section, the principal factor to be given consideration shall be the prevailing wage rates being paid by the franchisees in the community in which the franchisee is doing business, and in no event shall the compensation of a franchisee for warranty labor be less than the rates charged by the franchisee for like service to retail customers for nonwarranty service and repairs, provided that such rates are reasonable.

4. A franchisor shall not:

- (1) Fail to perform any warranty obligation;
- (2) Fail to include in written notices of franchisor recalls to owners of new motorcycles and all-terrain vehicles the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; or
- (3) Fail to compensate any of the franchisees in this state for repairs effected by the recall.

5. All claims made by a franchisee pursuant to this section for labor and parts shall be paid within thirty days after their approval. All claims shall be either approved or disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claims not specifically disapproved in writing within thirty days after the receipt of the form shall be considered to be approved and payment shall be made within thirty days. A claim that has been approved and paid may not be charged back to the franchisee unless the franchisor can show that the claim was fraudulent, false, or unsubstantiated, except that a charge back for false or fraudulent claims shall not be made more than two years after payment, and a charge back for unsubstantiated claims shall not be made more than fifteen months after payment. A franchisee shall maintain all records of warranty repairs, including the related time records of its employees, for at least two years following payment of any warranty claim.

6. A franchisor shall compensate the franchisee for franchisor-sponsored sales or service promotion events, programs, or activities in accordance with established guidelines for such events, programs, or activities.

7. All claims made by a franchisee pursuant to subsection 5 of this section for promotion events, programs, or activities shall be paid within twenty-five days after their approval or program close, whichever comes later. All claims except those of the type set forth in subparagraphs (1) and (2) of this subsection shall be either approved or

disapproved by the franchisor within thirty days after their receipt on a proper form generally used by the franchisor and containing the usually required information therein. Any claim not specifically disapproved in writing within thirty days after the receipt of this form shall be considered to be approved, and payment shall be made within thirty days. The franchisor has the right to charge back any claim for twelve months after the later of either the close of the promotion event, program, or activity, or the date of the payment. The provisions of this subsection shall not apply to:

(1) Claims related to holdbacks, retail sales bonuses, or similar programs in which the franchisor accrues a certain portion of the vehicle sales price for the franchisee and then, at a later point in time pays that amount to the franchisee, in which event the franchisor shall compensate a franchisee no later than forty-five days following the payment date that the franchisor specified in the program;

(2) Claims related to franchisor's use of a "balance forward account" to make reimbursement, in which event the franchisor shall compensate a franchisee no later than seventy-five days following the date that the franchisee properly registered the manufacturer's limited warranty for the vehicle.

407.1360. DEFINITIONS. — As used in sections 407.1360 to 407.1370, the following terms shall mean:

(1) "Boat dealer", any natural person, partnership, or corporation who, for a commission or with an intent to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel or vessel trailer, whether the vessel or vessel trailer is owned by such person;

(2) "Boat manufacturer", any person engaged in the manufacture, assembling, or modification of any vessels or vessel trailers as a regular business, including a person, partnership, or corporation which acts for and is under the control of a manufacturer or assembly in connection with the distribution of vessels or vessel trailers, except for any person so engaged in the manufacture, assembly, or modification of any vessel or vessel trailer which is headquartered in this state and not a wholly owned subsidiary of a person not headquartered in this state;

(3) "Dealer", a person who is a grantee of a dealership situated in this state;

(4) "Dealer agreement", a contract or agreement, either expressed or implied, whether oral or written, between two or more persons, by which a person is granted the right to sell or distribute goods or services or use a trade name, trademark, service mark, logotype, advertising, or other commercial symbol in which there is a community of interest in the business of offering, selling, or distributing goods or services at wholesale, retail, by lease agreement or otherwise;

(5) "Designated family member", the designated successor nominated by a boat dealer in a written document filed by the dealer with a manufacturer;

(6) "Good cause", for purposes of determining whether there is good cause for a proposed action, factors may include but not be limited to:

(a) The extent of the affected dealer's penetration in the relevant market area;

(b) The nature and extent of the dealer's investment in its business;

(c) The adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;

(d) The extent and quality of the dealer's service;

(e) The dealer's performance under the terms of its dealer agreement with the manufacturer;

(f) The dealer's compliance with the contractual requirements under the terms of the dealer agreement; or

(g) The factors as provided in section 407.1362;

- (7) "Grantor", a person who grants a dealership;
- (8) "Marine dealer", any natural person, partnership, or corporation who, for a commission or with an intent to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel or vessel trailer, whether the vessel or vessel trailer is owned by such person;
- (9) "Marine manufacturer", a person who is a grantee of a dealership situated in this state, except for any person so engaged in the manufacture, assembly, or modification of any vessel or vessel trailer which is headquartered in this state and not a wholly owned subsidiary of a person not headquartered in this state;
- (10) "Person", a natural person, partnership, joint venture, corporation, or other entity;
- (11) "Personal watercraft", a class of vessel, which is less than sixteen feet in length, propelled by machinery which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than being operated by a person sitting or standing inside the vessel;
- (12) "Vessel", every motorboat and every description of motorized watercraft, and any watercraft more than twelve feet in length which is powered by sail alone or by a combination of sail and machinery, used or capable of being used as a means of transportation on water, but not any watercraft having as the only means of propulsion a paddle or oars.

407.1362. DEALERSHIP AGREEMENTS, GOOD CAUSE NEEDED TO TERMINATE OR CANCEL. — 1. No boat, marine, vessel, or personal watercraft manufacturer, directly or through any officer, agent or employee may terminate, cancel or fail to renew a dealership agreement of a boat, marine, or vessel dealership without good cause. In addition, good cause shall exist whenever:

- (1) The boat, marine, vessel, or personal watercraft dealer has transferred an interest in the dealership without the manufacturer's written consent;
- (2) The boat, marine, vessel, or personal watercraft dealer has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against it which has not been discharged within thirty days after the filing;
- (3) There has been a closeout or sale of a substantial part of the dealer's assets related to the boat, marine, vessel, or personal watercraft dealership or there has been a commencement or dissolution or liquidation of the dealership;
- (4) There has been a change without the prior written approval of the manufacturer in the location of the dealer's principal place of business under the dealership agreement;
- (5) The boat, marine, vessel, or personal watercraft dealer has defaulted under any chattel mortgage or other security agreement between the dealer and the boat, marine, vessel, or personal watercraft manufacturer or there has been a revocation or discontinuance of any guarantee of the dealer's present or future obligations to the boat, marine, or vessel;
- (6) The boat, marine, vessel, or personal watercraft dealer has failed to operate in the normal course of business for thirty consecutive days or has otherwise abandoned his or her business, unless otherwise provided for in the dealer agreement;
- (7) The boat, marine, vessel, or personal watercraft dealer has pleaded guilty to or has been convicted of a felony, or of any misdemeanor relating to the relationship between the dealer and manufacturer;
- (8) The dealer has engaged in conduct which is injurious or detrimental to the dealer's customers or to the public welfare.

407.1364. NOTICE OF TERMINATION OR CANCELLATION, CONTENTS. — 1. Except as provided in this section, a boat, marine, vessel, or personal watercraft manufacturer shall provide a boat, marine, vessel, or personal watercraft dealer at least ninety days prior written notice of termination, cancellation, or nonrenewal of the dealership agreement. The notice shall state all the reasons for termination, cancellation, or nonrenewal of the dealership agreement and shall provide the said dealer the aforesaid ninety days in which to cure any claimed deficiency. If the deficiency is rectified within the aforesaid ninety days, the manufacturer's notice shall be void. However, if the dealer fails to provide the notice of intent to cure deficiencies in the prescribed time period, the termination shall take effect sixty days after the dealer's receipt of the manufacturer's notice unless the dealer has new and untitled inventory on hand, in which case, if requested by the dealer, it will take effect upon the sale of the remaining inventory but in no event later than ninety days from the manufacturer's notice of termination.

2. The notice and right to cure provisions in this section shall not apply if the reason for termination, cancellation, or nonrenewal is for good cause as defined in section 407.1360.

3. A dealer may terminate its dealer agreement at any time by giving written notice of said intentions to the manufacturer at least ninety days prior to the effective date specified for termination.

4. The ninety day notice may be reduced to sixty days' notice if the grounds for termination are due to:

(1) Conviction of or pleas of nolo contendere to a felony of a dealer, or one of its owners;

(2) The business operations of the dealer have been abandoned or closed for thirty consecutive days unless the closing is due to an act of God or other cause over which the dealer has no control;

(3) A material misrepresentation by the dealer; or

(4) The suspension, revocation, or refusal to renew the dealer's license.

5. The provisions of this section regarding notice shall not apply if the reason for termination is insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy.

407.1366. CHANGE IN OWNERSHIP, NOTICE REQUIRED. — 1. If a boat, marine, vessel, or personal watercraft dealer desires to make a change in its ownership by the sale of the business assets, stock transfer, or otherwise, the dealer must give the manufacturer ninety days' written notice prior to the closing including all supporting documentation as may be required by the manufacturer. The manufacturer shall not refuse to agree to such proposed change or sale and may not disapprove or withhold approval of such change or sale unless the manufacturer can show that its decision is based on the manufacturer's reasonable criteria, which may include but is not limited to the prospective transferee's business experience, moral character, financial qualifications, and any criminal record.

2. It is unlawful for any manufacturer to fail to provide a boat, marine, vessel, or personal watercraft dealer an opportunity to designate, in writing, a member of the dealer's family as a successor to the dealership in the event of the death, incapacity, or retirement of the boat, marine, vessel, or personal watercraft dealer. It shall be unlawful to prevent or refuse to honor the succession to a dealership by a member of the family of the deceased, retired or incapacitated dealer unless the manufacturer has provided to the dealer written notice of its objections. Grounds for objection shall be lack of creditworthiness, conviction of a felony, lack of required licenses or business experience or other conditions which make such succession unreasonable under the circumstances, but the manufacturer shall bear the burden of showing the unreasonableness of such succession. However, no member of the family may succeed to a boat, marine, vessel, or

personal watercraft dealer if the succession to the boat, marine, vessel, or personal watercraft dealer involves, without the manufacturer's consent, a relocation of the business or an alteration of the terms and conditions of the written agreement.

3. If the manufacturer rejects a proposed change or sale, the manufacturer shall give written notice of its reasons to the boat, marine, vessel, or personal watercraft dealer within sixty days after receipt of the dealer notification and complete documentation. If no such notice is given to the boat, marine, vessel, or personal watercraft dealer, the change or sale shall be deemed approved.

407.1368. REPURCHASE REQUIRED, WHEN. — If the boat, marine, vessel, or personal watercraft dealer agreement is terminated, canceled or not renewed by the manufacturer for cause, the manufacturer shall, at the election of the boat, marine, vessel, or personal watercraft dealer, within thirty days of termination, repurchase:

(1) (a) All new, untitled current model year inventory, acquired from the manufacturer, which has not been used (except for demonstration purposes), altered or damaged to the extent that such damage must be disclosed to the consumer pursuant to section 407.1343, at one hundred percent of the net invoice cost, less transportation, applicable rebates, and discounts to the dealer;

(b) All new, untitled inventory of the prior model year, acquired from the manufacturer, provided the prior model year vessels have not been altered, used (except for demonstration purposes) or damaged to the extent that such damage must be disclosed to the consumer pursuant to section 407.1343, and were drafted on the dealer's financing source or paid within one hundred twenty days prior to the effective date of the termination, cancellation, or nonrenewal;

(c) Any other existing inventory provided the boat, marine, vessel, or personal watercraft dealer and the manufacturer have agreed on a wholesale value for such inventory.

In the event any of the vessels repurchased pursuant to this subdivision are damaged, but do not trigger the consumer disclosure requirement, the amount due the dealer shall be reduced by the cost to repair the vessels. Damage prior to delivery to dealer that is disclosed at the time of delivery will not disqualify repurchase under this provision;

(2) All current and undamaged manufacturer's accessories and proprietary parts sold to the dealer for resale, if accompanied by the original invoice, at one hundred percent of the original net price paid to the manufacturer minus a ten percent freight and restocking expenses; and

407.1370. APPLICABILITY. — The provisions of sections 407.1360 to 407.1370 shall apply to all dealership agreements entered into or renewed on or after January 1, 2005.

Approved July 9, 2004

HB 1290 [SCS HS HCS HB 1290]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates income tax refund contribution designations for certain charities.

AN ACT to amend chapter 143, RSMo, by adding thereto one new section relating to contributions to certain nonprofit organizations with the cure of a chronic illness as its primary purpose.

SECTION

A. Enacting clause.

143.605. Income tax refunds, designation of a portion of to certain charitable organizations — transfer of contributions, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 143, RSMo, is amended by adding thereto one new section, to be known as section 143.605, to read as follows:

143.605. INCOME TAX REFUNDS, DESIGNATION OF A PORTION OF TO CERTAIN CHARITABLE ORGANIZATIONS — TRANSFER OF CONTRIBUTIONS,PROCEDURE. — **1.** For all tax years beginning on or after January 1, 2004, each individual or corporation entitled to a tax refund in an amount sufficient to make an irrevocable designation under this section may designate that an amount not less than one dollar but not more than two hundred dollars, on a single or a combined return, of the refund due be credited to the American Cancer Society Heartland Division, Inc., fund, the ALS Lou Gehrig's Disease fund, the American Lung Association of Missouri fund, the Muscular Dystrophy Association fund, the Arthritis Foundation fund, the American Diabetes Association Gateway Area fund, the American Heart Association fund, the March of Dimes fund, or the National Multiple Sclerosis Society fund established in this section. The director of revenue shall establish a method that allows the contribution designations authorized by this section and the contribution designation authorized in section 143.1020 to be combined into two contribution designation boxes clearly and unambiguously printed on the first page of each income tax return form provided by this state. The method may allow for a separate instruction list for the tax return that lists each authorized contribution designation together with the designation provided in section 143.1020. Any organization to be listed on the income tax return form under this section shall have qualified as a 501(c)(3) organization as defined by the Internal Revenue Code of 1986, as amended, for at least five years, shall be a statewide organization, shall have the cure of a chronic illness as its primary purpose, and shall submit to the director of revenue an application fee of one thousand dollars, and the fee shall be deposited in the designated fund. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make an irrevocable contribution to the funds established in this section, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for which funds the individual or corporation wishes to contribute, and the department of revenue shall forward such amount to the state treasurer for deposit to the designated funds as provided in this section.

2. Moneys accruing to and deposited in the designated funds shall not be part of total state revenues as defined in sections 17 and 18, article X, Constitution of Missouri, and the expenditure of such revenues shall not be an expense of state government under section 20, article X, Constitution of Missouri.

3. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the designated funds.

4. The director of revenue shall transfer at least monthly all contributions designated by corporations under this section, less one percent of the amount in each fund at the time of the transfer for the cost of collection and handling by the department of revenue, to be deposited in the state's general revenue fund, to the state treasurer for deposit to the designated funds. The amount transferred annually to the department of revenue for the cost of collection and handling shall not exceed one hundred thousand dollars.

5. A contribution designated under this section shall only be transferred and deposited in the designated funds after all other claims against the refund from which such contribution is to be made have been satisfied.

6. (1) There is hereby created in the state treasury the "American Cancer Society, Heartland Division, Inc., Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(2) There is hereby created in the state treasury the "ALS Lou Gehrig's Disease Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(3) There is hereby created in the state treasury the "American Lung Association of Missouri Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(4) There is hereby created in the state treasury the "Muscular Dystrophy Association Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(5) There is hereby created in the state treasury the "Arthritis Foundation Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(6) There is hereby created in the state treasury the "National Multiple Sclerosis Society Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(7) There is hereby created in the state treasury the "American Diabetes Association Gateway Area Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(8) There is hereby created in the state treasury the "American Heart Association Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(9) There is hereby created in the state treasury the "March of Dimes Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

7. All moneys collected, transferred, and disbursed under this section shall stand appropriated, and any moneys remaining in the funds established in this section at the end of the biennium shall not revert to the credit of the general revenue fund.

8. The state treasurer shall invest moneys in the funds established in this section in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the funds.

9. The director of the department of revenue shall establish a procedure by which the moneys deposited in the funds shall be distributed semiannually to the American Cancer Society Heartland Division, Inc., the Amyotrophic Lateral Sclerosis Association, and the American Lung Association of Missouri, the Muscular Dystrophy Association, the Arthritis Foundation, the American Diabetes Association Gateway Area, the National Multiple Sclerosis Society, the American Heart Association, and the March of Dimes.

10. Any organization receiving moneys under this section shall expend such moneys solely for the support of residents of this state.

11. Any organization receiving funds under this section shall report to the director of revenue annually, on forms prescribed by the director, detailing how the funds were expended. The director shall compile such information and provide a report to the general assembly in each year such expenditures are made.

12. The director of revenue is authorized to promulgate rules and regulations necessary to administer and enforce this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

13. If an organization that has the cure of sickle cell anemia as its primary purpose is formed that meets the requirements of this section, such organization shall be included on the income tax form in accordance with the provisions of this section and there shall be created in the state treasury a fund with the name of the organization. The fund shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

Approved June 24, 2004

HB 1291 [HB 1291]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits a lender of a residential mortgage from requiring a borrower to purchase homeowners' insurance coverage in an amount exceeding the replacement value of the improvement and contents.

AN ACT to repeal section 375.937, RSMo, and to enact in lieu thereof one new section relating to unfair insurance practice and fraud.

SECTION

A. Enacting clause.

375.937. Lenders, duties — prohibited acts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 375.937, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.937, to read as follows:

375.937. LENDERS, DUTIES — PROHIBITED ACTS. — 1. No person may require as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation a creditor is to acquire or finance, negotiate any contract of insurance or renewal thereof through a particular insurer or group of insurers or agent, broker or group of agents or brokers.

2. No person who lends money or extends credit may:

(1) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(2) Require that any borrower, mortgagor, purchaser, insurer, broker or agent pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan on real estate, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subdivision does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit documents;

(3) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance;

(4) Require any procedures or conditions of duly licensed agents, brokers or insurers not customarily required of those agents, brokers or insurers affiliated or in any way connected with the person who lends money or extends credit;

(5) Solicit insurance for the protection of real property, after a person indicates interest in securing a first mortgage credit extension, until such person has received a commitment in writing from the lender as to a loan or credit extension;

(6) As a condition of financing a residential mortgage or providing other financial arrangements for residential property, require a borrower to purchase homeowners' insurance coverage in an amount exceeding the replacement value of the improvements and contents on the real property. A violation of this subdivision shall not affect the validity of the loan, note secured by a deed of trust, mortgage, or deed of trust.

3. Every person who lends money or extends credit and who solicits insurance on real and personal property subject to subsection 2 of this section must explain to the borrower in writing that the insurance related to such credit extension may be purchased from an insurer or agent of the borrower's choice, subject only to the lender's right to reject a given insurer or agent as provided in subdivision (1) of subsection 2 of this section. Compliance with disclosures as to insurance required by truth-in-lending laws or comparable state laws shall be in compliance with this subsection. This requirement for a commitment shall not apply in cases where the premium for the required insurance is to be financed as part of the loan or extension of credit involving personal property transactions. The commitment shall contain the rate or rate formula, amount and terms of the loan, subject to the creditworthiness of the borrower, valuation of the property and the insurability to value of the property.

4. The director shall have the power to examine and investigate those insurance-related activities of any person which may be in violation of this section. Any affected person may submit to the director a complaint or material pertinent to the enforcement of this section.

5. Nothing in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

6. Nothing contained in this section shall apply to credit life or credit accident and health insurance.

Approved June 25, 2004

HB 1317 [HB 1317]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates special license plates for Boy Scouts of America.

AN ACT to amend chapter 301, RSMo, by adding thereto one new section relating to special license plates for Boy Scouts.

SECTION

A. Enacting clause.

301.3139. Boy Scouts of America special license plates, application, fee.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto one new section, to be known as section 301.3139, to read as follows:

301.3139. BOY SCOUTS OF AMERICA SPECIAL LICENSE PLATES, APPLICATION, FEE. —

1. Any Boy Scout of appropriate age as prescribed by law or parent of a Boy Scout may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Boy Scouts of America Council of which the person is a member or the parent of a member. The Boy Scouts of America hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Boy Scouts of America derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Boy Scouts of America. Any Boy Scout or parent of a Boy Scout may annually apply for the use of the emblem and pay the twenty-five dollar emblem-use authorization fee at any local district council in the state.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Boy Scouts of America, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Boy Scouts of America and the words "BOY SCOUTS OF AMERICA" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Boy Scouts of America emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Boy Scouts of America emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved July 2, 2004

HB 1321 [SCS HCS HB 1321]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes additional regulations on neighborhood improvement districts.

AN ACT to repeal sections 67.457 and 67.469, RSMo, and to enact in lieu thereof three new sections relating to neighborhood improvement districts.

SECTION

- A. Enacting clause.
- 67.456. Neighborhood improvement districts — duration of bond maturity — maintenance provisions required, when — assessed costs on divided property recalculated, how, restrictions.
- 67.457. Establishment of neighborhood improvement districts — procedure — notice of elections, contents — alternatives, petition, contents — maintenance costs, assessment.
- 67.469. Assessment treated as tax lien, payable upon foreclosure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.457 and 67.469, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.456, 67.457, and 67.469, to read as follows:

67.456. NEIGHBORHOOD IMPROVEMENT DISTRICTS — DURATION OF BOND MATURITY — MAINTENANCE PROVISIONS REQUIRED, WHEN — ASSESSED COSTS ON DIVIDED PROPERTY RECALCULATED, HOW, RESTRICTIONS. — 1. The average maturity of bonds or notes issued under the neighborhood improvement district act after August 28, 2004, shall not exceed one hundred twenty percent of the average economic life of the improvements for which the bonds or notes are issued.

2. Any improvement for which a petition is filed or an election is held under section 67.457 after August 28, 2004, including improvements to or located on property owned by a city or county, shall include provisions for maintenance of the project during the term of the bonds or notes.

3. In the event that, after August 28, 2004, any parcel of property within the neighborhood improvement district is divided into more than one parcel of property after the final costs of the improvement are assessed, all unpaid final costs of the improvement assessed to the original parcel that was divided shall be recalculated and reassessed proportionally to each of the parcels resulting from the division of the original parcel, based on the assessed valuation of each resulting parcel. No parcel of property which has had the assessment against it paid in full by the property owner shall be reassessed under this section. No parcel of property shall have the initial assessment against it changed, except for any changes for special, supplemental, or additional assessments authorized under the state neighborhood improvement district act.

67.457. ESTABLISHMENT OF NEIGHBORHOOD IMPROVEMENT DISTRICTS — PROCEDURE — NOTICE OF ELECTIONS, CONTENTS — ALTERNATIVES, PETITION, CONTENTS — MAINTENANCE COSTS, ASSESSMENT. — 1. To establish a neighborhood improvement district, the governing body of any city or county shall comply with either of the procedures described in subsection 2 or 3 of this section.

2. The governing body of any city or county proposing to create a neighborhood improvement district may by resolution submit the question of creating such district to all qualified voters residing within such district at a general or special election called for that purpose. Such resolution shall set forth the project name for the proposed improvement, the

general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, and the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year [after] **during the term of the bonds issued for the original improvement and after such bonds** are paid in full. The governing body of the city or county may create a neighborhood improvement district when the question of creating such district has been approved by the vote of the percentage of electors within such district voting thereon that is equal to the percentage of voter approval required for the issuance of general obligation bonds of such city or county under article VI, section 26 of the constitution of this state. The notice of election containing the question of creating a neighborhood improvement district shall contain the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year after the bonds issued for the original improvement are paid in full, and a statement that the final cost of such improvement assessed against real property within the district and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such notice, by more than twenty-five percent, **and that the annual assessment for maintenance costs of the improvements shall not exceed the estimated annual maintenance cost, as stated in such notice, by more than twenty five percent.** The ballot upon which the question of creating a neighborhood improvement district is submitted to the qualified voters residing within the proposed district shall contain a question in substantially the following form:

Shall (name of city or county) be authorized to create a neighborhood improvement district proposed for the (project name for the proposed improvement) and incur indebtedness and issue general obligation bonds to pay for all or part of the cost of public improvements within such district, the cost of all indebtedness so incurred to be assessed by the governing body of the (city or county) on the real property benefited by such improvements for a period of years, and, if included in the resolution, an assessment in each year thereafter with the proceeds thereof used solely for maintenance of the improvement?

3. As an alternative to the procedure described in subsection 2 of this section, the governing body of a city or county may create a neighborhood improvement district when a proper petition has been signed by the owners of record of at least two-thirds by area of all real property located within such proposed district. The petition, in order to become effective, shall be filed with the city clerk or county clerk. A proper petition for the creation of a neighborhood improvement district shall set forth the project name for the proposed improvement, the general nature of the proposed improvement, the estimated cost of such improvement, the boundaries of the proposed neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year [after] **during the term of the bonds issued for the original improvement and after such bonds** are paid in full, a notice that the names of the signers may not be withdrawn later than seven days after the petition is filed with the city clerk or county clerk, and a notice that the final cost of such improvement assessed against real property within the district and the amount of general obligation bonds issued therefor shall not exceed the estimated cost of such improvement, as stated in such petition, by more than twenty-five percent, **and that the annual assessment for maintenance costs of the improvements shall not exceed the estimated annual maintenance cost, as stated in such petition, by more than twenty-five percent.**

4. Upon receiving the requisite voter approval at an election or upon the filing of a proper petition with the city clerk or county clerk, the governing body may by resolution or ordinance determine the advisability of the improvement and may order that the district be established and that preliminary plans and specifications for the improvement be made. Such resolution or

ordinance shall state and make findings as to the project name for the proposed improvement, the nature of the improvement, the estimated cost of such improvement, the boundaries of the neighborhood improvement district to be assessed, the proposed method or methods of assessment of real property within the district, including any provision for the annual assessment of maintenance costs of the improvement in each year after the bonds issued for the original improvement are paid in full, and shall also state that the final cost of such improvement assessed against the real property within the neighborhood improvement district and the amount of general obligation bonds issued therefor shall not, without a new election or petition, exceed the estimated cost of such improvement by more than twenty-five percent.

5. The boundaries of the proposed district shall be described by metes and bounds, streets or other sufficiently specific description. The area of the neighborhood improvement district finally determined by the governing body of the city or county to be assessed may be less than, but shall not exceed, the total area comprising such district.

6. In any neighborhood improvement district organized prior to August 28, 1994, an assessment may be levied and collected after the original period approved for assessment of property within the district has expired, with the proceeds thereof used solely for maintenance of the improvement, if the residents of the neighborhood improvement district either vote to assess real property within the district for the maintenance costs in the manner prescribed in subsection 2 of this section or if the owners of two-thirds of the area of all real property located within the district sign a petition for such purpose in the same manner as prescribed in subsection 3 of this section.

67.469. ASSESSMENT TREATED AS TAX LIEN, PAYABLE UPON FORECLOSURE. — A special assessment authorized under the provisions of sections 67.453 to 67.475 shall be a lien, from the date of the assessment, on the property against which it is assessed on behalf of the city or county assessing the same to the same extent as a tax upon real property. **Upon the foreclosure of any such lien, the entire remaining assessment shall become due and payable and shall be recoverable in such foreclosure proceeding.**

Approved June 25, 2004

HB 1347 [HCS HB 1347]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates Secretary of State's Council on Library Development and sets out guidelines for publishing formats.

AN ACT to repeal sections 37.310, 37.320, 37.360, 181.021, 181.100, 181.110, 181.120, and 181.130, RSMo, and to enact in lieu thereof eight new sections relating to the state library.

SECTION

- A. Enacting clause.
- 37.310. Forms management unit established — agencies to cooperate.
- 37.320. Director, appointment, qualifications — member of state records commission — staff to be employed under system.
- 37.360. Unit to furnish services to whom.
- 181.021. Secretary of state to manage state library and Wolfner library — functions — report — receipt of property.
- 181.022. Secretary of state to create council on library development — purpose — terms — members.
- 181.100. Distribution of reports, definitions, requirements, charges, when.

- 181.110. Agencies to aid in publication of state publications — secretary of state to provide electronic repository, responsibilities — state library to assist with electronic repository, responsibilities — participating libraries — rulemaking authority.
- 181.130. Library agreements permitted, when.
- 181.120. Library to provide copies for state archives and historical society.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 37.310, 37.320, 37.360, 181.021, 181.100, 181.110, 181.120, and 181.130, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 37.310, 37.320, 37.360, 181.021, 181.022, 181.100, 181.110, and 181.130, to read as follows:

37.310. FORMS MANAGEMENT UNIT ESTABLISHED — AGENCIES TO COOPERATE. — A "Forms Management Unit", is hereby established within the office of administration. The unit shall develop a forms management program for state agencies, and shall implement the provisions of sections 37.300 to 37.390, 109.250 and 181.100 to [181.120] **181.110**, RSMo. Each agency shall fully cooperate with the unit, and shall furnish all requested information and assistance.

37.320. DIRECTOR, APPOINTMENT, QUALIFICATIONS — MEMBER OF STATE RECORDS COMMISSION — STAFF TO BE EMPLOYED UNDER SYSTEM. — 1. The commissioner of administration shall appoint a director as the executive head of the unit. The director must be experienced in the principles of information and forms management, archives, and the affairs and organization of state government. He shall be a person who is qualified by training and experience to administer the affairs of the unit.

2. The director shall appoint such staff as may be necessary to implement the provisions of sections 37.300 to 37.390, 109.250 and 181.100 to [181.120] **181.110**, RSMo. All staff members shall be appointed pursuant to the provisions of chapter 36, RSMo.

3. The director shall also serve as an additional voting member of the state records commission established by the provisions of section 109.250, RSMo.

37.360. UNIT TO FURNISH SERVICES TO WHOM. — The unit shall offer its services to agencies within the legislative and judicial branches of government, and to those agencies of the executive branch which are otherwise excepted from the provisions of sections 37.300 to 37.390, 109.250 and 181.100 to [181.120] **181.110**, RSMo.

181.021. SECRETARY OF STATE TO MANAGE STATE LIBRARY AND WOLFNER LIBRARY — FUNCTIONS — REPORT — RECEIPT OF PROPERTY. — The Missouri state library shall be under the control of the secretary of state and operated under rules and regulations promulgated by the secretary of state. The secretary of state shall:

(1) Direct the survey of services given by libraries which may be established or assisted under any law for state grants-in-aid to libraries;

(2) Further the coordination of library services furnished by the state with those of local libraries and other educational agencies;

(3) Publish an annual report showing conditions and progress of public library service in Missouri;

(4) Furnish information and counsel as to the best means of establishing and maintaining libraries, the selection of materials, cataloging, and other details of library management; provide assistance in organizing libraries or improving service given by them and assist library services in state institutions;

(5) Receive and administer grants from the United States under any act of Congress for public libraries, or other types of library service, and make rules and regulations in connection with such grants as may be necessary or required in the administration thereof;

(6) Receive gifts of money, books or other property which may be used or held in trust for the purposes given;

(7) Administer state grants-in-aid and encourage local support for the betterment of local library service and generally promote an effective statewide public library system;

(8) Procure and disseminate information by any means necessary within the state among individuals, communities, libraries, schools, charitable and state institutions, state departments and other organizations;

(9) Administer the Wolfner Library for the blind and physically handicapped and ensure library services to the eligible blind and physically handicapped residents of this state;

(10) Appoint members to the secretary of state's council on library development, as set forth in section 181.022, RSMo.

181.022. SECRETARY OF STATE TO CREATE COUNCIL ON LIBRARY DEVELOPMENT — PURPOSE — TERMS — MEMBERS. — 1. The secretary of state shall create the "Secretary's Council on Library Development" to advise the secretary of state and the state library on matters that relate to the state's libraries and library service to Missouri citizens, to recommend to the secretary of state and the state library policies and programs relating to libraries in the state, and to communicate the value of libraries.

2. Members of the secretary's council on library development shall serve three-year terms, to be served on a rotating basis as shall be established by the secretary of state.

3. The members of the secretary's council on library development shall be appointed by the secretary of state, to include members of the house of representatives, members of the senate, representatives of the public and of libraries, trustees of Missouri libraries, and users of the state libraries.

181.100. DISTRIBUTION OF REPORTS, DEFINITIONS, REQUIREMENTS, CHARGES, WHEN. — 1. [As used in sections 181.100 to 181.120, "state publications" shall include all multiple-produced publications of state agencies, regardless of format or purpose, with the exception of correspondence and interoffice memoranda.] As used in sections 181.100 to 181.130 the following terms shall mean, unless the context requires otherwise:

(1) "Agency", each department, office, commission, board, or other administrative office or unit of state government;

(2) "Electronic repository", a collection of electronic publications kept in a secure environment with adequate backup to protect the collection;

(3) "Format", any media used in the publication of state information including electronic, print, audio, visual, and microform;

(4) "Participating libraries", a library selected by the secretary of state to assist the public in locating and using state publications in any format; and designated to house and make available to the public publications which agencies have produced in print;

(5) "Publications", the information published by agencies intended for distribution to the legislature, agencies, political subdivisions, non-profit organizations or broad distribution to the public, including publications issued electronically or in other formats;

(6) "State Publications Access Program", a program to provide access to state publications for all citizens of Missouri through a secure repository of electronic publications available to the public through electronic networks and print collections located in libraries throughout Missouri.

2. Other provisions of law to the contrary notwithstanding, all state agencies required to issue and distribute multiple-produced annual, biannual, or periodic reports shall distribute such reports without charge only to those persons and offices listed in subsection 4 of this section. For the purposes of sections 181.100 to [181.120] 181.130, the word "report" means a state publication which is either a printed statement by a state agency, issued at specific intervals, which describes its operations and progress, and possibly contains a statement of its future plans;

or a formal, written account of an investigation given by a person or group delegated to make the investigation. Such reports shall not be distributed to any other person, including members of the general assembly, state officeholders, other state agencies, divisions or departments, or to members of the public, except upon request.

3. No report described in subsection 2 of this section shall be distributed free of charge to any person or office, except as provided in subsection 4 of this section. Each recipient of any such report shall pay the cost of printing and postage, which cost shall be determined by the issuing agency prior to distribution of the document.

4. Each agency of state government which distributes annual, biannual, or periodic reports **printed in paper** shall provide [forty-five] **such** copies of each such document free of charge to the state library **as the state library shall specify**, along with a statement of the cost and address where additional copies of such report may be requested. Two copies of all reports shall be provided to the legislative library, one copy to the chief clerk of the house of representatives, one copy to the secretary of the senate, one copy to the supreme court library and one copy to the governor.

181.110. AGENCIES TO AID IN PUBLICATION OF STATE PUBLICATIONS — SECRETARY OF STATE TO PROVIDE ELECTRONIC REPOSITORY, RESPONSIBILITIES — STATE LIBRARY TO ASSIST WITH ELECTRONIC REPOSITORY, RESPONSIBILITIES — PARTICIPATING LIBRARIES — RULEMAKING AUTHORITY. — [The state library shall, under the direction of the secretary of state, publish monthly an official indexed list of all printed publications of all state offices, departments, divisions, boards and commissions, whether legislative, executive or judicial, and any subdivisions of each, including state-supported institutions of higher education. Such list shall state the cost of each publication contained therein. The library shall also distribute such numbers of copies of such publications as it deems necessary to certain libraries, also designated by it, which shall serve as depositories for making available to the public such publications. No publications shall be distributed to any library unless a request is made therefor.] **1. For the purpose of providing the services described in this section, each agency shall have the following responsibilities and powers:**

(1) **To submit to the state library electronically each publication created by the agency in a manner consistent with the state's enterprise architecture;**

(2) **To determine the format used to publish;**

(3) **For those publications which the agency determines shall be printed and published in paper, to supply the number of copies for participating libraries as determined by the secretary of state;**

(4) **To assign a designee as a contact for the state publications access program and forward this information to the secretary of state annually.**

2. For the purpose of providing the services described in this section, the secretary of state shall have the following responsibilities:

(1) **The secretary, through the state library, shall provide a secure electronic repository of state publications. Access to the state publications in the repository shall be provided through multiple methods of access, including the statewide online library catalog and a publicly accessible electronic network;**

(2) **The secretary shall create, in administrative rule, the criteria for selection of participating libraries and the responsibilities incumbent upon those libraries in serving the citizens of Missouri;**

(3) **The secretary shall set by administrative rule the electronic formats acceptable for submission of publications to the electronic repository;**

(4) **The secretary may issue and promulgate rules to enforce, implement and effectuate the powers and duties established in sections 181.100 to 181.130.**

3. For the purpose of providing the services described in this section, the state library shall have the following responsibilities, all to be performed in a manner consistent with e-government:

(1) The state library shall administer the electronic repository of state publications for access by the citizens of Missouri, and receive and distribute publications in other formats, which will be housed and made available to the public by the participating libraries;

(2) The state library shall ensure the organization and classification of state publications regardless of formats and the distribution of materials in additional formats to participating libraries;

(3) The state library shall publish regularly a list of all publications of the agencies, regardless of format.

4. For the purpose of providing the services described in this section, the participating libraries shall have the following responsibilities:

(1) To ensure citizens who come to the library will be able to access publications electronically;

(2) To maintain paper copies of those state publications that agencies publish in paper that are designated by the secretary of state to be included in the Missouri state publication access program;

(3) To maintain a collection of older state publications published by the agencies in paper and designated by the secretary of state to be included in the Missouri state publication access program;

(4) To provide training for staff of other libraries to assist the public in the use of state publications;

(5) To assist agencies in the distribution of paper copies of state publications to the public.

5. All responsibilities and powers set out in this section shall be carried out consistent with the provisions of section 191.863, RSMo.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

181.130. LIBRARY AGREEMENTS PERMITTED, WHEN. — The state library may enter into [depository] agreements with [public] **participating** libraries [and college and university libraries] which meet standards for [depository] eligibility [as approved] **to be established** by the state library.

[181.120. LIBRARY TO PROVIDE COPIES FOR STATE ARCHIVES AND HISTORICAL SOCIETY. — In addition to the distribution of the publications as aforesaid, the library shall distribute two of the forty-five copies of each publication to the state archives for preservation and two copies to the state historical society.]

Approved June 25, 2004

HB 1362 [HB 1362]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes county planning commissions to accept additional forms of security for improvements made to subdivisions in unincorporated areas.

AN ACT to repeal section 64.825, RSMo, and to enact in lieu thereof one new section relating to regulation of subdivisions in unincorporated areas.

SECTION

A. Enacting clause.

64.825. Regulation of subdivisions in unincorporated areas — procedure — bonds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 64.825, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 64.825, to read as follows:

64.825. REGULATION OF SUBDIVISIONS IN UNINCORPORATED AREAS — PROCEDURE — BONDS. — The county planning commission may also prepare, with the approval of the county commission, as parts of the official master plan or otherwise, sets of regulations governing subdivisions of land in unincorporated areas, and amend or change same from time to time as herein provided, which regulations may provide for the proper location and width of streets, building lines, open spaces, safety, recreation, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may also include the extent to which and the manner in which streets shall be graded and improved, and the extent to which water, sewer and other utility services shall be provided, to protect public health and general welfare. Such regulations may provide that in lieu of the immediate completion or installation of the work, the county planning commission may accept bond for the county commission in the amount and with surety **bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit** and conditions satisfactory to the county commission, providing for and securing to the county commission the actual construction of the improvements and utilities within a period specified by the county planning commission, and the county commission shall have power to enforce the **bond, surety bond, cash bond, cash deposit with the county treasurer, letter of credit, or certificate of deposit** by all proper remedies. The subdivision regulations shall be adopted, changed or amended, certified and filed as provided in section 64.815. The subdivision regulations shall be adopted, changed or amended only after a public hearing has been held thereon, public notice of which shall be given in the manner as provided for the hearing in section 64.815.

Approved June 25, 2004

HB 1363 [HCS HB 1363]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires Secretary of State to maintain, operate, and acquire archival office in St. Louis.

AN ACT to amend chapter 109, RSMo, by adding thereto two new sections relating to an archival facility in St. Louis.

SECTION

A. Enacting clause.

109.400. Archival facility to be maintained, authority to enter into contracts and receive moneys.

109.410. Missouri State Archives — St. Louis Trust Fund established, use of funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 109, RSMo, is amended by adding thereto two new sections, to be known as sections 109.400 and 109.410, to read as follows:

109.400. ARCHIVAL FACILITY TO BE MAINTAINED, AUTHORITY TO ENTER INTO CONTRACTS AND RECEIVE MONEYS. — 1. The secretary of state is hereby authorized:

(1) To plan, acquire, construct, develop, operate, and maintain, or to lease or sublease to or from others for acquisition, construction, development, operation, and maintenance, an archival facility in St. Louis City to preserve documents of legal, historical, and genealogical importance to the state of Missouri, and to provide educational and outreach programs sponsored by the Missouri state archives;

(2) To enter into contracts and agreements with public or private persons, partnerships, associations, entities, corporations, and cities, counties, and other subdivisions of the state of Missouri such as might be necessary to promote the planning, acquisition, construction, development, operation, or maintenance of such facility and its programs; and

(3) To receive any grants, gifts, bequests, rentals, contributions, moneys, or properties appropriated or otherwise designated for payment to the secretary of state for the planning, acquisition, construction, development, operation, or maintenance of such facility and its programs by municipalities, counties, state, or other political subdivisions or public agencies or by the federal government or any agency or officer thereof or from any other public or private source.

2. Nothing in this section shall require any local agency, entity, or subdivision to transfer any records to the state archives.

109.410. MISSOURI STATE ARCHIVES — ST. LOUIS TRUST FUND ESTABLISHED, USE OF FUNDS. — 1. There is hereby established in the state treasury a special revolving fund to be known as the "Missouri State Archives - St. Louis Trust Fund". The fund shall consist of all moneys received from federal, private, or other sources for the planning, acquisition, construction, development, operation, or maintenance of the facility and programs authorized by section 109.400. The fund shall further consist of fees generated at the St. Louis facility for copying public records and for providing public access to public records and images, including staff time required for making copies and reproducing images.

2. The state treasurer shall be custodian of the Missouri state archives - St. Louis trust fund. Moneys in the fund shall be used exclusively for the planning, acquisition, construction, development, operation, or maintenance of the facility and programs authorized by section 109.400. No moneys obtained through the provisions of this section shall be made a part of the general operating budget of the state of Missouri, nor shall they be transferred into the general revenue fund. No moneys from the state general revenue fund shall be appropriated for the purposes of funding an archival facility located in any city not within a county as provided in sections 109.400 to 109.410. Notwithstanding section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of any biennium shall not revert to the credit of the general revenue fund. All yield, interest, income, increment, or gain received from time deposit of moneys in the state treasury to the credit of the fund shall be credited to the fund. Notwithstanding any provision of law to the contrary, no amount of moneys in the fund shall be transferred from the fund or charged for purposes of the administration of central services for the state of Missouri.

Approved July 2, 2004

HB 1364 [HB 1364]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes the filing of parenting plans for children over the age of eighteen optional in proceedings relating to child visitation, custody, or support.

AN ACT to repeal section 452.310, RSMo, and to enact in lieu thereof one new section relating to parenting plans.

SECTION

A. Enacting clause.

452.310. Petition, contents — service, how — rules to apply — defenses abolished — parenting plans submitted, when, content, exception.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 452.310, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.310, to read as follows:

452.310. PETITION, CONTENTS — SERVICE, HOW — RULES TO APPLY — DEFENSES ABOLISHED — PARENTING PLANS SUBMITTED, WHEN, CONTENT, EXCEPTION. — 1. In any proceeding commenced pursuant to this chapter, the petition, a motion to modify, a motion for a family access order and a motion for contempt shall be verified. The petition in a proceeding for dissolution of marriage shall allege that the marriage is irretrievably broken and that therefore there remains no reasonable likelihood that the marriage can be preserved. The petition in a proceeding for legal separation shall allege that the marriage is not irretrievably broken and that therefore there remains a reasonable likelihood that the marriage can be preserved.

2. The petition in a proceeding for dissolution of marriage or legal separation shall set forth:

- (1) The residence of each party, including the county, and the length of residence of each party in this state and in the county of residence;
- (2) The date of the marriage and the place at which it is registered;
- (3) The date on which the parties separated;
- (4) The name, date of birth and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;
- (5) Whether the wife is pregnant;
- (6) The Social Security number of the petitioner, respondent and each child;
- (7) Any arrangements as to the custody and support of the children and the maintenance of each party; and
- (8) The relief sought.

3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal separation, each child shall immediately be subject to the jurisdiction of the court in which the proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the child is pending in juvenile court. Until permitted by order of the court, neither parent shall remove any child from the jurisdiction of the court or from any parent with whom the child has primarily resided for the sixty days immediately preceding the filing of a petition for dissolution of marriage or legal separation.

4. The mere fact that one parent has actual possession of the child at the time of filing shall not create a preference in favor of such parent in any judicial determination regarding custody of the child.

5. The respondent shall be served in the manner provided by the rules of the supreme court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a verified

answer within thirty days of the date of service which shall not only admit or deny the allegations of the petition, but shall also set forth:

(1) The Social Security number of the petitioner, respondent and each child;
(2) Any arrangements as to the custody and support of the child and the maintenance of each party; and

(3) The relief sought.

6. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

7. The petitioner and respondent shall submit a proposed parenting plan, either individually or jointly, within thirty days after service of process or the filing of the entry of appearance, whichever event first occurs of a motion to modify or a petition involving custody or visitation issues. The proposed parenting plan shall set forth the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

(1) A specific written schedule detailing the custody, visitation and residential time for each child with each party including:

(a) Major holidays stating which holidays a party has each year;

(b) School holidays for school-age children;

(c) The child's birthday, Mother's Day and Father's Day;

(d) Weekday and weekend schedules and for school-age children how the winter, spring, summer and other vacations from school will be spent;

(e) The times and places for transfer of the child between the parties in connection with the residential schedule;

(f) A plan for sharing transportation duties associated with the residential schedule;

(g) Appropriate times for telephone access;

(h) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;

(i) Any suggested restrictions or limitations on access to a party and the reasons such restrictions are requested;

(2) A specific written plan regarding legal custody which details how the decision-making rights and responsibilities will be shared between the parties including the following:

(a) Educational decisions and methods of communicating information from the school to both parties;

(b) Medical, dental and health care decisions including how health care providers will be selected and a method of communicating medical conditions of the child and how emergency care will be handled;

(c) Extracurricular activities, including a method for determining which activities the child will participate in when those activities involve time during which each party is the custodian;

(d) Child care providers, including how such providers will be selected;

(e) Communication procedures including access to telephone numbers as appropriate;

(f) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;

(g) If a party suggests no shared decision-making, a statement of the reasons for such a request;

(3) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:

(a) The suggested amount of child support to be paid by each party;

(b) The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;

(c) The payment of educational expenses, if any;

(d) The payment of extraordinary expenses of the child, if any;

- (e) Child care expenses, if any;
- (f) Transportation expenses, if any.

8. If the proposed parenting plans of the parties differ and the parties cannot resolve the differences or if any party fails to file a proposed parenting plan, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order containing a parenting plan setting forth the arrangements specified in subsection 7 of this section which will remain in effect until further order of the court. The temporary order entered by the court shall not create a preference for the court in its adjudication of final custody, child support or visitation.

9. Within one hundred twenty days after August 28, 1998, the Missouri supreme court shall have in effect guidelines for a parenting plan form which may be used by the parties pursuant to this section in any dissolution of marriage, legal separation or modification proceeding involving issues of custody and visitation relating to the child.

10. The filing of a parenting plan for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction is not required. Nothing in this section shall be construed as precluding the filing of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction.

Approved June 25, 2004

HB 1377 [HB 1377]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Increases the expense payments for county planning commission members.

AN ACT to repeal sections 64.520 and 64.805, RSMo, and to enact in lieu thereof two new sections relating to expenses of county planning commissions.

SECTION

- A. Enacting clause.
- 64.520. County planning commission — members — term — expenses — chairman (counties of the second and third class).
- 64.805. County planning commission — members — terms — expenses — chairman.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 64.520 and 64.805, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 64.520 and 64.805, to read as follows:

64.520. COUNTY PLANNING COMMISSION — MEMBERS — TERM — EXPENSES — CHAIRMAN (COUNTIES OF THE SECOND AND THIRD CLASS). — Such county planning commission shall consist of the county highway engineer, and one resident of the county appointed by the county commission, from the unincorporated part of each township in the county, except that no such freeholder shall be appointed from a township in which there is no unincorporated area. The township representatives are hereinafter referred to as appointed members. The term of each appointed member shall be four years or until [his] a successor takes office, except that the terms shall be overlapping and that the respective terms of the members first appointed may be less than four years. The term of the county highway engineer shall be

only for the duration of [his] **the engineer's** tenure of official position. All members of the county planning commission shall serve as such without compensation, except that an attendance fee as reimbursement for expenses [for hearings, and for not to exceed two administrative meetings per month,] may be paid to the appointed members of the planning commission in an amount, as set by the county commission, not to exceed [fifteen] **twenty-five** dollars for each meeting. The planning commission shall elect its chairman, who shall serve for one year.

64.805. COUNTY PLANNING COMMISSION — MEMBERS — TERMS — EXPENSES — CHAIRMAN. — The county planning commission shall consist of the county highway engineer, and one resident of the county appointed by the county commission, from the unincorporated part of each township in the county, except that no such person shall be appointed from a township in which there is no unincorporated area. The township representatives are hereinafter referred to as appointed members. The term of each appointed member shall be four years or until [his] a successor takes office, except that the terms shall be overlapping and that the respective terms of the members first appointed may be less than four years. The term of the county highway engineer shall be only for the duration of [his] **the engineer's** tenure of official position. All members of the county planning commission shall serve as such without compensation, except that an attendance fee as reimbursement for expenses[, for not to exceed four meetings per year,] may be paid to the appointed members of the county planning commission in an amount, as set by the county commission, not to exceed [ten] **twenty-five** dollars per meeting. The planning commission shall elect its chairman, who shall serve for one year.

Approved July 1, 2004

HB 1398 [HB 1398]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a bid process for selecting the depository of city funds in Maryville.

AN ACT to repeal sections 95.280 and 95.285, RSMo, and to enact in lieu thereof two new sections relating to depositories for city funds, with penalty provisions.

SECTION

- A. Enacting clause.
- 95.280. Depository for city funds, how selected.
- 95.285. Depository to deposit securities — contract term for depositories, certain cities (Maryville).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 95.280 and 95.285, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 95.280 and 95.285, to read as follows:

95.280. DEPOSITORY FOR CITY FUNDS, HOW SELECTED. — 1. Subject to the provisions of section 110.030, RSMo, the city council, at its regular meetings in July of each year, may receive sealed proposals for the deposit of the city funds from banking institutions doing business within the city that desire to be selected as the depository of the funds of the city. Notice that bids will be received shall be published by the city clerk not less than one nor more than four

weeks before the meeting, in some newspaper published in the city. Any banking institution doing business in the city, desiring to bid, shall deliver to the city clerk, on or before the day of the meeting, a sealed proposal stating the rate percent upon daily balances that the banking institution offers to pay to the city for the privilege of being the depository of the funds of the city for the year next ensuing the date of the meeting; or, in the event that the selection is made for a less term than one year, as herein provided, then for the time between the date of the bid and the next regular time for the selection of a depository. It is a misdemeanor for the city clerk or other person to disclose directly or indirectly the amount of any bid to any person before the selection of the depository.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the city council of any third class city with a population of more than fifteen thousand and less than nineteen thousand that is located in any county of the fourth classification with a population of more than forty thousand and less than forty-eight thousand three hundred, **or of any city of the third classification with more than ten thousand five hundred but less than ten thousand six hundred inhabitants** may receive sealed proposals for the deposit of city funds from banking institutions doing business within the city at any of the regular meetings of such city. The city shall send notice of bids to each banking institution in the city by regular mail at the time the notice is published in the newspaper in subsection 1 of this section. The banking institution selected as the depository shall be offered a depository contract for a maximum of two years. Any such city shall follow the bid procedure established in subsection 1 of this section, except as otherwise provided in this subsection.

95.285. DEPOSITORY TO DEPOSIT SECURITIES — CONTRACT TERM FOR DEPOSITARIES, CERTAIN CITIES (MARYVILLE). — **1. Except as provided in subsection 2 of this section,** upon the opening of the sealed proposals submitted, the city council shall select as the depository of the funds of the city the banking institution offering to pay to the city the largest amount for the privilege; except that the council may reject any or all bids. Within five days after the selection of the depository, the banking institution selected shall deposit the securities as required by sections 110.010 and 110.020, RSMo. The rights and duties of the parties to the depository contract are as provided in section 110.010, **RSMo.**

2. Notwithstanding any provision of section 95.280 or this section to the contrary, the contract term for any city of the third classification with more than ten thousand five hundred but less than ten thousand six hundred inhabitants shall begin on the first day of August following the receipt of the bid proposals.

Approved July 2, 2004

HB 1399 [HCS HB 1399]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies sections dealing with athletic trainers to require licenses in lieu of registration.

AN ACT to repeal sections 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, and 334.717, RSMo, and to enact in lieu thereof eight new sections relating to athletic trainers.

SECTION

- A. Enacting clause.
 - 334.702. Definitions.
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- 334.704. Athletic trainers required to be licensed.
- 334.706. Board of healing arts, powers and duties — rules and regulations, procedure.
- 334.708. Qualifications of athletic trainers seeking licensure.
- 334.710. Licensure forms and fee — deposit of fees.
- 334.712. License issued, when — content.
- 334.715. Refusal — suspension — revocation of license, grounds — reinstatement, procedure.
- 334.717. Missouri athletic trainer advisory committee, appointment — members, qualifications, terms, vacancies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, and 334.717, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, and 334.717, to read as follows:

334.702. DEFINITIONS. — As used in sections 334.700 to 334.725, unless the context clearly requires otherwise, the following terms mean:

- (1) "[Apprentice] **Student** athletic trainer", a person who assists in the duties usually performed by [an] **a licensed** athletic trainer and who works under the direct supervision of a [registered] **licensed** athletic trainer;
- (2) "Athlete", a person who participates in a sanctioned amateur or professional sport or recreational sport activity;
- (3) "Athletic trainer", a person who meets the qualifications of section 334.708 and who, upon the direction of the team physician and/or consulting physician, practices prevention, emergency care, first aid, treatment, or physical rehabilitation of injuries incurred by athletes in the manner, means, and methods deemed necessary to effect care or rehabilitation, or both;
- (4) "Board", the Missouri board for the healing arts;
- (5) "Committee", the athletic trainers advisory committee;
- (6) "Division", the division of professional registration of the department of economic development.

334.704. ATHLETIC TRAINERS REQUIRED TO BE LICENSED. — No person shall hold himself **or herself** out as an athletic trainer in this state unless [he] **such person** has been [registered] **licensed** as such under the provisions of sections 334.700 to 334.725.

334.706. BOARD OF HEALING ARTS, POWERS AND DUTIES — RULES AND REGULATIONS, PROCEDURE. — 1. The board shall [register] **license** applicants who meet the qualifications for athletic trainers, who file for [registration] **licensure**, and who pay all fees required for this [registration] **licensure**.

2. The board shall:

- (1) Prescribe application forms to be furnished to all persons seeking [registration] **licensure** under sections 334.700 to 334.725;
- (2) Prepare and conduct examinations for applicants for [registration] **licensure** under sections 334.700 to 334.725;
- (3) Prescribe the form and design of the [registration] **licensure** to be issued under sections 334.700 to 334.725;
- (4) Set the fee for examination, [registration] **licensure**, and renewal thereof;
- (5) Keep a record of all of its proceedings regarding the Missouri athletic trainers act and of all athletic trainers [registered] **licensed** in this state;
- (6) Annually prepare a roster of the names and addresses of all athletic trainers [registered] **licensed** in this state, copies of which shall be made available upon request to any person paying the fee therefor;
- (7) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

- (8) Appoint members of the Missouri athletic trainer advisory committee;
- (9) Adopt an official seal.
- 3. The board may:
 - (1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend, or revoke [registration] **a license**;
 - (2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 334.700 to 334.725;
 - (3) Establish guidelines for athletic trainers in sections 334.700 to 334.725.
- 4. No rule or portion of a rule promulgated under the authority of sections 334.700 to 334.725 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

334.708. QUALIFICATIONS OF ATHLETIC TRAINERS SEEKING LICENSURE. — 1. Any person seeking [registration] **licensure** under sections 334.700 to 334.725 must be a resident or in the process of establishing residency in this state and must meet at least one set of the following qualifications:

- (1) Has met all of the National Athletic Trainers Association certification qualifications;
- (2) Holds a degree in physical therapy with at least a minor in physical education or health which included a basic athletic training course and has spent at least two academic years, military duty included, working under the direct supervision of a certified athletic trainer;
- (3) Can show proof acceptable to the board of experience and educational quality equal to that in subdivision (1), and can pass the examination for [registration] **licensure** under sections 334.700 to 334.725.

2. The board shall grant, without examination, [registration] **licensure** to any qualified nonresident athletic trainer holding a license or [registration] **licensure** in another state if such other state recognizes [registrants] **licenses** of the state of Missouri in the same manner.

334.710. LICENSURE FORMS AND FEE — DEPOSIT OF FEES. — 1. All applications for initial [registration] **licensure** under sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by an initial [registration] **licensure** fee. All applications for renewal of [registration] **licensure** issued under sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by a renewal fee.

2. All fees of any kind and character authorized to be charged by the board shall be paid to the director of revenue and shall be deposited by the state treasurer into the board for the healing arts fund, to be disbursed only in payment for expenses of maintaining the athletic trainer [registration] **licensure** program and for the enforcement of the provisions of sections 334.700 to 334.725.

334.712. LICENSE ISSUED, WHEN — CONTENT. — 1. Any person who meets the qualifications listed in section 334.708, submits his **or her** application and fees in accordance with section 334.710, and has not committed any act listed in section 334.715 shall be issued [registration] **a license** under sections 334.700 to 334.725.

2. Each [registration] **license** issued under sections 334.700 to 334.725 shall contain the name of the person to whom it was issued, the date on which it was issued and such other information as the board deems advisable. All [registrations] **licenses** issued under sections 334.700 to 334.725 shall expire on January thirtieth of each year.

334.715. REFUSAL — SUSPENSION — REVOCATION OF LICENSE, GROUNDS — REINSTATEMENT, PROCEDURE. — 1. The board may refuse to [register] **license** any applicant or may suspend, revoke, or refuse to renew the [registration] **license** of any [registrant] **licensee** for any one or any combination of the causes provided in section 334.100, or if the applicant or [registrant] **licensee**:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification as adopted and published by the committee and the board and filed with the secretary of state.

2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any [registration] **license** which has expired, been suspended or been revoked or may issue any [registration] **license** which has been denied; provided, that no application for reinstatement or issuance of [registration] **license** shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the [registration] **license** to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.

334.717. MISSOURI ATHLETIC TRAINER ADVISORY COMMITTEE, APPOINTMENT — MEMBERS, QUALIFICATIONS, TERMS, VACANCIES. — 1. There is hereby created the "Missouri Athletic Trainer Advisory Committee", to be composed of five members to be appointed by the board.

2. The athletic trainer advisory committee shall:

(1) Assist the board in conducting examinations for applicants of athletic trainer [registration] **license**;

(2) Advise the board on all matters pertaining to the [registration] **license** of athletic trainers;

(3) Review all complaints and/or investigations wherein there is a possible violation of sections 334.700 to 334.725 or regulations promulgated pursuant thereto and make recommendations to the board for action;

(4) Follow the provisions of the board's administrative practice procedures in conducting all official duties.

3. Each athletic trainer advisory committee member shall:

(1) Be a citizen of the United States and a resident of the state of Missouri for five years next preceding appointment; and

(2) Be comprised of three [registered] **licensed** athletic trainers except for initial appointees; and

(3) One member shall be a physician duly licensed by the Missouri state board for the healing arts; and

(4) One member shall be a general public member.

4. Except for the initial appointees, members shall hold office for terms of six years. The board shall designate one member for a term expiring in 1984, one member for a term expiring in 1985, one member for a term expiring in 1986, one member for a term expiring in 1987, and one member for a term expiring in 1988. In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the board in the same manner as the other appointments.

Approved July 2, 2004

HB 1403 [SCS HCS HB 1403]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates additional regulations of amusement rides.

AN ACT to repeal sections 316.203, 316.204, 316.210, 316.218, 316.230, 316.233, and 701.377, RSMo, and to enact in lieu thereof nine new sections relating to amusement rides, with penalty provisions for certain sections, and an effective date.

SECTION

- A. Enacting clause.
- 316.203. Definitions.
- 316.204. Amusement ride safety board established — members — meetings, when.
- 316.210. Amusement ride operation, qualifications — inspection, insurance, bond, permit.
- 316.213. Portable amusement rides, itinerary to be filed, contents.
- 316.218. Penalty.
- 316.230. Passenger to obey rules — prohibited acts — penalty.
- 316.233. Passenger may not ride, when.
- 316.238. Rock climbing walls, subject to amusement ride regulations, when.
- 701.377. Fees, how set, limitation — deposit — elevator safety fund created, purpose — fees paid to political subdivisions, when, exception, state certificate.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 316.203, 316.204, 316.210, 316.218, 316.230, 316.233, and 701.377, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 316.203, 316.204, 316.210, 316.213, 316.218, 316.230, 316.233, 316.238, and 701.377, to read as follows:

316.203. DEFINITIONS. — As used in sections 316.203 to 316.233, the following terms mean:

(1) "Amusement ride", **any of the following, which is primarily for the purpose of giving its patrons amusement, pleasure, thrills, or excitement, and which is open to the general public excluding skill teaching, exercise, and team building:**

(a) Any mechanical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area [for the purpose of giving its passengers amusement, pleasure or excitement];

(b) **Any dry slide over twenty feet in height excluding water slides;**

(c) **Any tram, open car, or combination of open cars or wagons pulled by a tractor or other motorized device, except hayrack rides, those used solely for transporting patrons to and from parking areas, or those used for guided or educational tours, but does not necessarily follow a fixed or restricted course;**

(d) **Any bungee cord attraction or similar elastic device;**

(e) **Any climbing wall over ten feet in height except for not-for-profit entities that follow the YMCA Services Corporation's Climbing Walls Safety Guidelines or the Boy Scouts of America Guidelines;**

(2) **"Board", the amusement ride safety board established in section 316.204;**

(3) "Department", the department of public safety;

[(3)] (4) "Director", the director of the department of public safety;

[(4)] (5) "Operator", a person or the agent of a person who owns or controls, or has the duty to control, the operation of an amusement [or] ride or related electrical equipment;

[(5)] (6) "Owner", a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state;

[(6)] (7) "Qualified inspector", any person who is:

(a) Found by the director to possess the requisite training and experience in respect of amusement rides to perform competently the inspections required by sections 316.203 to 316.233; or

(b) Certified by the National Association of Amusement Ride Safety Officials (NAARSO) to have and maintain at least a level one certification; or

(c) Is a member of the Amusement Industry Manufacturing and Suppliers (AIMS) and meets such qualifications as are established by the board;

[(7)] (8) "Related electrical equipment", any electrical apparatus or wiring used in connection with amusement rides;

[(8)] (9) "Safety rules", the rules and regulations governing rider conduct on an amusement ride, provided such rules and regulations are prominently displayed at or near the entrance to, or loading platform for, the amusement ride;

[(9)] (10) "Serious physical injury", a patron personal injury immediately reported to the owner or operator as occurring on an amusement ride and which results in death, dismemberment, significant disfigurement or other significant injury that requires immediate in-patient admission and twenty-four-hour hospitalization under the care of a licensed physician for other than medical observation; **and**

[(10)] (11) "Serious incident", any single incident where three or more persons are immediately transported to a licensed off-site medical care facility for treatment of an injury as a result of being on or the operation of the amusement ride]; and

(11) "Board", the amusement ride safety board appointed as provided in sections 316.203 to 316.233].

316.204. AMUSEMENT RIDE SAFETY BOARD ESTABLISHED — MEMBERS — MEETINGS, WHEN. — 1. There is hereby established an "Amusement Ride Safety Board" to be composed of nine members, one of whom shall be the state fire marshal or the marshal's designee. The remaining eight members of the board shall be appointed by the governor with the advice and consent of the senate. Each member appointed by the governor shall be appointed for a staggered term of five years or until [his or her] a successor is appointed. The governor shall fill any vacancy on the board for the remainder of the unexpired term with a representative of the same interest as that of the member whose term is vacant. No more than four members of the board, who are not employees of state or local government, shall be members of the same political party.

2. Three members of the board shall represent the interests of small amusement ride businesses that operate in this state. Three members of the board shall represent the interests of the fixed amusement ride parks. One member of the board shall be a resident of this state. One member of the board shall be a mechanical engineer knowledgeable of amusement rides.

3. The state fire marshal shall call the first meeting of the board within sixty days after all members have been appointed and qualified. The members from among their membership shall elect a chairperson. After the initial meeting the members shall meet at the call of the chairperson, but shall meet at least three times per year. Five members of the board shall constitute a quorum.

4. The members of the board shall receive no compensation for their services, and shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

316.210. AMUSEMENT RIDE OPERATION, QUALIFICATIONS — INSPECTION, INSURANCE, BOND, PERMIT. — 1. A person shall not operate an amusement ride unless the owner:

(1) Has the amusement ride inspected at least once annually by a qualified inspector, whom the owner or an insurer has provided to perform such inspection, and obtains from such qualified inspector written documentation that the inspection has been made and that the amusement ride meets nationally recognized inspection standards and is covered by the insurance required by subdivision (2) of this subsection;

(2) Has:

(a) An insurance policy currently in force written by an insurance company authorized to do business in this state in an amount of not less than one million dollars per occurrence; **or**

(b) A bond in the same amount as such person's policy from paragraph (a) of this subdivision, provided that the aggregate liability of the surety under such bond shall not exceed the face amount of the bond; or

- (c) Cash or other surety acceptable to the department;
 - (3) Files with the department the inspection report and certificate of insurance verifying the policy required by this section or a photocopy of such documentation or certificate; and
 - (4) Has been issued a state operating permit by the department and affixed such permit to the designated amusement ride. Such permit fee shall not exceed actual administrative costs.
2. The inspection required pursuant to subdivision (1) of subsection 1 of this section shall be conducted at a minimum to meet the manufacturer's or engineer's [recommendations] **specifications and to follow the applicable national standards.**
3. **The department or designee may conduct a spot inspection of any amusement ride without notice at any time while such amusement ride is operating or will be operating in this state. The department may order temporary suspension of an operating permit if it has been determined after a spot inspection to be hazardous or unsafe. Operation of such amusement ride shall not resume until the hazardous or unsafe condition has been corrected and subjected to reinspection by the department for an inspection fee established by rule.**
4. All fees collected pursuant to this section shall be deposited to the credit of the [general revenue] **elevator safety fund created pursuant to section 701.377, RSMo.**

316.213. PORTABLE AMUSEMENT RIDES, ITINERARY TO BE FILED, CONTENTS. — The owner or operator of portable amusement rides shall file an itinerary with the department on a department form no less than fifteen days before the operation of an amusement ride for use by the public. The itinerary shall include the following:

- (1) **The name of the amusement ride owner;**
- (2) **The carnival, fair, or activity sponsor;**
- (3) **The address and telephone number of the site;**
- (4) **The dates open to the public; and**
- (5) **The name of the contact person on site.**

316.218. PENALTY. — 1. Any person who knowingly operates, causes to be operated or directs someone to operate an amusement ride in violation of sections 316.203 to 316.233 is guilty of a class A misdemeanor.

2. Any person who knowingly makes a false statement, representation, or certification in an application, record, report, or other document filed or required to be maintained under section 316.200 to 316.237 shall be guilty of a misdemeanor punishable under section 575.060, RSMo.

316.230. PASSENGER TO OBEY RULES — PROHIBITED ACTS — PENALTY. — 1. A passenger on an amusement ride shall, at a minimum:

- (1) Obey the reasonable safety rules posted in accordance with sections 316.203 to 316.233 and oral instructions for an amusement ride issued by the amusement owner or such owner's employee or agent, unless:
 - (a) The safety rules are contrary to sections 316.203 to 316.233; or
 - (b) The oral instructions are contrary to sections 316.203 to 316.233 or the safety rules; and
- (2) Refrain from acting in any manner that may cause or contribute to injuring such passenger or others, including:
 - (a) Interfering with safe operation of the amusement ride;
 - (b) Not engaging any safety devices that are provided;
 - (c) Disconnecting or disabling a safety device except at the express instruction of the operator;
 - (d) Altering or enhancing the intended speed, course or direction of an amusement ride;
 - (e) Extending arms and legs beyond the carrier or seating area except at the express direction of the ride **or attraction** operator;

- (f) Throwing, dropping or expelling an object from or toward an amusement ride;
- (g) Getting on or off an amusement ride except at the designated time and area, if any, at the direction of the ride operator, or in an emergency; and
- (h) Unreasonably controlling the speed or direction of such passenger or an amusement ride that requires the passenger to control or direct himself or herself or a device.

2. Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.

316.233. PASSENGER MAY NOT RIDE, WHEN. — An amusement ride passenger shall not get on, **enter**, or attempt to get on an amusement ride unless the passenger reasonably determines that, at a minimum, he or she:

- (1) Has sufficient knowledge to use, get on, **enter**, or get off the amusement ride safely without instruction or has requested and received before getting on the ride sufficient information to get on, use, **enter**, or get off safely;
- (2) Has located, reviewed and understood any signs in the vicinity of the ride and has satisfied any posted height, medical or other restrictions and abided by all rules, regulations and restrictions;
- (3) Is not under the influence of alcohol or any drug that affects his or her ability to safely use the amusement ride or obey the posted rules or oral instructions; and
- (4) Is authorized by the amusement owner or such owner's authorized servant, agent or employee to get on the amusement ride.

316.238. ROCK CLIMBING WALLS, SUBJECT TO AMUSEMENT RIDE REGULATIONS, WHEN. — All rock climbing walls over ten feet tall operated in this state, except as provided in paragraph (d) and (e) of subdivision (1) of section 316.203, shall be subject to the same rules and regulations as amusement rides pursuant to sections 316.200 to 316.238.

701.377. FEES, HOW SET, LIMITATION — DEPOSIT — ELEVATOR SAFETY FUND CREATED, PURPOSE — FEES PAID TO POLITICAL SUBDIVISIONS, WHEN, EXCEPTION, STATE CERTIFICATE. — As otherwise provided by sections 701.350 to 701.380, the **elevator safety** board shall set fees for inspection, permits, licenses, certificates, and plan review required by the provisions of sections 701.350 to 701.380. Fees shall be determined by the **elevator safety** board to provide sufficient funds for the operation of the board, except that no fee for the certificate shall exceed twenty-five dollars. The **elevator safety** board may alter the fee schedule once each year. Any funds collected pursuant to sections 701.350 to 701.380 and sections 316.200 to 316.237, RSMo, shall be deposited in the "Elevator Safety Fund" which is hereby created. Moneys shall be appropriated from the fund for the expense and functions of the [board] **elevator safety and amusement ride safety boards**. Any unexpended funds in the elevator safety fund at the close of the biennium shall revert to the general revenue as required by section 33.080, RSMo. A municipality or other political subdivision enforcing the provisions of sections 701.350 to 701.380 under the provisions of subsection 2 of section 701.365 and which performs the plan review, permitting, inspections, and certifications as required, the fee for that inspection shall be paid directly to the municipality or political subdivision and shall not be preempted by sections 701.350 to 701.380, except that any fee established by the **elevator safety** board for the issuance of appropriate state certificates shall be paid to the **elevator safety** board.

SECTION B. EFFECTIVE DATE. — Section A of this act shall become effective January 1, 2005.

Approved July 2, 2004

HB 1405 [HCS HB 1405]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates special license plates for Missouri DeMolay.

AN ACT to amend chapter 301, RSMo, by adding thereto two new sections relating to special license plates.

SECTION

- A. Enacting clause.
- 301.3130. Missouri Association of State Troopers Emergency Relief Society, special license plate — emblem authorization — use of contribution fee, application procedure — rulemaking authority.
- 301.3148. Missouri DeMolay, special license plates — emblem authorization — use of contributions, fee, application procedure — new plates issued, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto two new sections, to be known as sections 301.3130 and 301.3148, to read as follows:

301.3130. MISSOURI ASSOCIATION OF STATE TROOPERS EMERGENCY RELIEF SOCIETY, SPECIAL LICENSE PLATE — EMBLEM AUTHORIZATION — USE OF CONTRIBUTION FEE, APPLICATION PROCEDURE — RULEMAKING AUTHORITY. — **1.** Any member of the Missouri Association of State Troopers Emergency Relief Society, after an annual payment of an emblem-use authorization fee to the Missouri Association of State Troopers Emergency Relief Society, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Association of State Troopers Emergency Relief Society hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue as provided in this section. Any contribution to the Missouri Association of State Troopers Emergency Relief Society derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Association of State Troopers Emergency Relief Society. Any member of the Missouri Association of State Troopers Emergency Relief Society may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri Association of State Troopers Emergency Relief Society, the Missouri Association of State Troopers Emergency Relief Society shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Missouri Association of State Troopers Emergency Relief Society and the words "The MASTERS" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the Missouri Association of State Troopers Emergency Relief Society emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Association of State Troopers Emergency Relief Society emblem, as otherwise provided by law.

4. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3148. MISSOURI DEMOLAY, SPECIAL LICENSE PLATES — EMBLEM AUTHORIZATION — USE OF CONTRIBUTIONS, FEE, APPLICATION PROCEDURE — NEW PLATES ISSUED, WHEN. — 1. Any member of Missouri DeMolay may receive special license plates as prescribed in this section after an annual payment of an emblem-use authorization fee to Missouri DeMolay. Missouri DeMolay hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Missouri DeMolay derived from this section, except reasonable administrative costs, shall be used solely for Missouri DeMolay scholarships and other charitable programs. Any member of Missouri DeMolay may annually apply to Missouri DeMolay for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Missouri DeMolay, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the member to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement and payment of the fee required for personalized license plates in section 301.144, and other fees and documents which may be required by law, the department of revenue shall issue a personalized license plate, which shall bear the emblem of the Missouri DeMolay, to the vehicle owner.

3. The license plate authorized by this section shall be in a form prescribed by the advisory committee established in section 301.129, except that such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. The bidding process used to select a vendor for the material to manufacture the license plates authorized by this section shall consider the aesthetic appearance of the plate.

4. A vehicle owner, who was previously issued a plate with the Missouri DeMolay emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri DeMolay emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

Approved July 1, 2004

HB 1407 [HB 1407]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates an administrative system for adjudicating certain municipal code violations in St. Louis city.

AN ACT to amend chapter 479, RSMo, by adding thereto one new section relating to adjudication of certain municipal code violations.

SECTION

A. Enacting clause.

479.011. Administrative adjudication of certain code violations in St. Louis City — authorization, rules requirements — tribunal designated by ordinance, procedures — evidence reviewed — imprisonment and fines limited — judicial review, lien imposed, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 479, RSMo, is amended by adding thereto one new section, to be known as section 479.011, to read as follows:

479.011. ADMINISTRATIVE ADJUDICATION OF CERTAIN CODE VIOLATIONS IN ST. LOUIS CITY — AUTHORIZATION, RULES REQUIREMENTS — TRIBUNAL DESIGNATED BY ORDINANCE, PROCEDURES — EVIDENCE REVIEWED — IMPRISONMENT AND FINES LIMITED — JUDICIAL REVIEW, LIEN IMPOSED, WHEN. — 1. Any city not within a county may establish, by order or ordinance, an administrative system for adjudicating parking and other nonmoving municipal code violations consistent with applicable state law. Such administrative adjudication system shall be subject to practice, procedure, and pleading rules established by the state supreme court, circuit court, or municipal court. This section shall not be construed to affect the validity of other administrative adjudication systems authorized by state law and created before August 28, 2004.

2. The order or ordinance creating the administrative adjudication system shall designate the administrative tribunal and its jurisdiction, including the code violations to be reviewed. The administrative tribunal may operate under the supervision of the municipal court, parking commission, or other entity designated by order or ordinance and in a manner consistent with state law. The administrative tribunal shall adopt policies and procedures for administrative hearings, and filing and notification requirements for appeals to the municipal or circuit court, subject to the approval of the municipal or circuit court.

3. The administrative adjudication process authorized in this section shall ensure a fair and impartial review of contested municipal code violations, and shall afford the parties due process of law. The formal rules of evidence shall not apply in any administrative review or hearing authorized in this section. Evidence, including hearsay, may be admitted only if it is the type of evidence commonly relied upon by reasonably prudent persons in the conduct of their affairs. The code violation notice, property record, and related documentation in the proper form, or a copy thereof, shall be prima facie evidence of the municipal code violation. The officer who issued the code violation citation need not be present.

4. An administrative tribunal may not impose incarceration or any fine in excess of the amount allowed by law. Any sanction, fine or costs, or part of any fine, other sanction, or costs, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under chapter 536, RSMo, shall be a debt due and owing the city, and may be collected in accordance with applicable law.

5. Any final decision or disposition of a code violation by an administrative tribunal shall constitute a final determination for purposes of judicial review, subject to review under chapter 536, RSMo. After expiration of the judicial review period under chapter 536, RSMo, unless stayed by a court of competent jurisdiction, the administrative tribunal's decisions, findings, rules, and orders may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. Upon being recorded in the manner required by state law or the Uniform Commercial Code, a lien may be imposed on the real or personal property of any defendant entering a plea of nolo contendere, pleading guilty to, or found guilty of a municipal code violation in the amount of any debt due the city under this section and enforced in the same manner as a judgment lien under a judgment of a court of competent jurisdiction.

Approved June 25, 2004

HB 1422 [HCS HB 1422]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires dentists administering anesthesia agents to have permits.

AN ACT to amend chapter 332, RSMo, by adding thereto one new section relating to dentists.

SECTION

A. Enacting clause.

332.361. Dentist may prescribe, possess and administer drugs.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 332, RSMo, is amended by adding thereto one new section, to be known as section 332.361, to read as follows:

332.361. DENTIST MAY PRESCRIBE, POSSESS AND ADMINISTER DRUGS. — 1. All duly registered and currently licensed dentists in Missouri who prescribe and administer deep sedation or general anesthesia agents in the course of providing dental services shall possess a deep sedation or general anesthesia permit issued by the board. All duly registered and currently licensed dentists in Missouri who prescribe and administer conscious sedation agents in the course of providing dental services shall possess a conscious sedation permit issued by the board.

2. Dentists prescribing or administering deep sedation or general anesthesia or conscious sedation agents shall do so in accordance with rules set forth by the board.

3. Any dental office where deep sedation or general anesthesia or conscious sedation agents are administered shall possess a site certificate issued by the board and comply with the board's minimum standard for site certificates.

4. The board may promulgate rules specifying the criteria by which deep sedation or general anesthesia permits, conscious sedation permits, and site certificates may be issued, renewed, or revoked and standards for prescribing and administering deep sedation or general anesthesia or conscious sedation agents within the dental setting. Such rules shall only apply to entities regulated under this chapter.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it

complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

Approved July 2, 2004

HB 1427 [HB 1427]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the provisions regarding forfeiture of controlled substances and drug paraphernalia.

AN ACT to repeal sections 195.140 and 195.410, RSMo, and to enact in lieu thereof two new sections relating to forfeiture of controlled substances and drug paraphernalia, with a penalty provision.

SECTION

A. Enacting clause.

195.140. Forfeiture of controlled substances and drug paraphernalia, when — disposal — money, records in close proximity also forfeited, rebuttable presumption — procedure.

195.410. Registration, qualifications for — suspension or revocation, grounds, procedure — limitations — duties of department.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 195.140 and 195.410, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 195.140 and 195.410, to read as follows:

195.140. FORFEITURE OF CONTROLLED SUBSTANCES AND DRUG PARAPHERNALIA, WHEN — DISPOSAL — MONEY, RECORDS IN CLOSE PROXIMITY ALSO FORFEITED, REBUTTABLE PRESUMPTION — PROCEDURE. — 1. All controlled substances, imitation controlled substances or drug paraphernalia for the administration, use or manufacture of controlled substances or imitation controlled substances and which have come into the custody of a peace officer or officer or agent of the department of health and senior services as provided by sections 195.010 to 195.320, the lawful possession of which is not established or the title to which cannot be ascertained after a hearing as prescribed in Rule 34 of Rules of Criminal Procedure for the courts of Missouri or some other appropriate hearing, shall be forfeited, and disposed of as follows:

(1) Except as in this section otherwise provided, the court or associate circuit judge having jurisdiction shall order such controlled substances, imitation controlled substances, or drug paraphernalia forfeited and destroyed. A record of the place where said controlled substances, imitation controlled substances, or drug paraphernalia were seized, of the kinds and quantities of controlled substances, imitation controlled substances, or drug paraphernalia so destroyed, and of the time, place and manner of destructions, shall be kept, and a return under oath, reporting the destruction of the controlled substances, imitation controlled substances, or drug paraphernalia shall be made to the court or associate circuit judge [and to the United States Commissioner of Narcotics, by the officer who destroys them.

(2) Upon written application by the department of health and senior services, the court or associate circuit judge by whom the forfeiture of such controlled substances, imitation controlled substances, or drug paraphernalia has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said department of health and senior services, for distribution or destruction, as herein provided.

(3) Upon application by any hospital within this state, not operated for private gain, the department of health and senior services may in its discretion deliver any controlled substances, imitation controlled substances, or drug paraphernalia for the use of controlled substances or imitation controlled substances that have come into its custody by authority of this section to the applicant for medicinal use. The department of health and senior services may, from time to time, deliver excess stocks of such controlled substances, imitation controlled substances, or drug paraphernalia to the United States Commissioner of Narcotics, or may destroy them.

(4)];

(2) The department of health and senior services shall keep a complete record of all controlled substances, imitation controlled substances, or drug paraphernalia received and disposed of, together with the dates of such receipt and disposal, showing the exact kinds, quantities, and forms of such controlled substances, imitation controlled substances, or drug paraphernalia; the persons from whom received and to whom delivered; and by whose authority they were received, delivered or destroyed; which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic or controlled substances laws.

2. (1) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance, imitation controlled substance or drug paraphernalia in violation of sections 195.010 to 195.320, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, or securities used, or intended to be used, to facilitate any violation of sections 195.010 to 195.320 shall be forfeited, except that no property shall be forfeited under this subsection to the extent of the interest of an owner by reason of any act or omission established by him to have been committed without his knowledge or consent.

(2) Any moneys, coin, or currency found in close proximity to forfeitable controlled substances, imitation controlled substances, or drug paraphernalia, or forfeitable records of the importation, manufacture, or distribution of controlled substances, imitation controlled substances or drug paraphernalia are presumed to be forfeitable under this subsection. The burden of proof shall be upon claimants of the property to rebut this presumption.

(3) All forfeiture proceedings shall be conducted pursuant to the provisions of sections 513.600 to 513.660, RSMo.

195.410. REGISTRATION, QUALIFICATIONS FOR — SUSPENSION OR REVOCATION, GROUNDS, PROCEDURE — LIMITATIONS — DUTIES OF DEPARTMENT. — 1. No registration shall be issued under section 195.405 unless and until the applicant for such registration has furnished proof satisfactory to the department of health and senior services that:

(1) The applicant is of good moral character or, if the applicant is an association or corporation, that the managing officers are of good moral character; and

(2) The applicant is properly equipped as to land, building, and paraphernalia to carry on the business described in his application.

2. No registration shall be granted to any person who has within two years been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any misdemeanor offense or within seven years for any felony offense related to controlled substances or chemicals listed in subsection 2 of section 195.400.

3. The department of health and senior services shall register an applicant to manufacture, distribute, sell, transfer, or otherwise furnish listed chemicals unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) Maintenance of effective controls against diversion of controlled substances or chemicals listed in subsection 2 of section 195.400 into other than legitimate medical, scientific, or industrial channels;

(2) Compliance with applicable state and local law;

(3) Any convictions of an applicant under any federal or state laws relating to any controlled substance or chemicals listed in subsection 2 of section 195.400;

(4) Past experience in the manufacture or distribution of controlled substances or chemicals listed in subsection 2 of section 195.400 and the existence in the applicant's establishment of effective controls against diversion;

(5) Furnishing by the applicant of false or fraudulent material information in any application filed under section 195.405; and

(6) Any other factors that the department of health and senior services determines to be relevant to and consistent with the public health and safety.

4. Registration does not entitle a registrant to manufacture and distribute chemicals listed in subsection 2 of section 195.400 other than those specified in the registrant's registration.

5. A registration to manufacture, distribute, sell, transfer, or otherwise furnish or dispense a controlled substance or chemical listed in subsection 2 of section 195.400 may be suspended or revoked by the department of health and senior services upon a finding that the registrant has:

(1) Furnished false or fraudulent material information in any application filed pursuant to sections 195.405 to 195.425;

(2) Been convicted of a felony under any state or federal law relating to any controlled substance or listed chemical;

(3) Had his federal authority to manufacture, distribute or dispense controlled substances or chemicals listed in sections 195.405 to 195.425 suspended or revoked; or

(4) Violated any federal controlled substances or chemicals statute or regulation, or any provision of sections 195.005 to 195.425 or regulation promulgated pursuant to sections 195.005 to 195.425.

6. The department of health and senior services may:

(1) Warn or censure a registrant;

(2) Limit a registration to particular listed chemicals;

(3) Limit revocation or suspension of a registration to a particular listed chemical with respect to which grounds for revocation or suspension exist;

(4) Restrict or limit a registration under such terms and conditions as the department of health and senior services considers appropriate for a period of five years;

(5) Suspend or revoke a registration for a period not to exceed five years; or

(6) Deny an application for registration.

In any order of revocation, the department of health and senior services may provide that the registrant may not apply for a new registration for one to five years following the date of such order. Any stay order shall toll this time period.

7. [If the department of health and senior services suspends or revokes a registration, all listed chemicals owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal by the department and held pending final disposition of the case. No disposition may be made of chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable chemicals and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all chemicals may be forfeited to the state.

8.] The department of health and senior services shall promptly notify the Drug Enforcement Administration, United States Department of Justice or their successor agencies, of all orders suspending or revoking registration and all forfeitures of controlled substances.

[9.] 8. The department of health and senior services may suspend without an order to show cause, any registration simultaneously with the institution of proceedings under subsection 5 of

this section if the department of health and senior services finds that there is imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including review of such proceedings unless sooner withdrawn by the department of health and senior services, dissolved by a court of competent jurisdiction or stayed by the administrative hearing commission.

Approved June 25, 2004

HB 1433 [HS HCS HB 1433]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the creation of a watershed improvement district in the Upper White River Basin.

AN ACT to repeal sections 644.076, 701.031, 701.033, 701.037, and 701.038, RSMo, and to enact in lieu thereof ten new sections relating to regulation of water and sewer systems.

SECTION

- A. Enacting clause.
- 249.1150. District authorized, powers — resolution may be adopted by county commission for service by district — board of trustees, members, terms — maintenance plan required, when — property tax levy, ballot form — termination of tax, procedure (Barry, Christian, Douglas, Greene, Ozark, Stone, Taney, Webster, and Wright counties).
- 249.1152. Resolution or petition, contents — county order or ordinance, contents — hearing procedures — property tax levy, ballot form — board of trustees created, members, terms — authority of district — dissolution of a district, procedures.
- 249.1154. Groundwater depletion areas designated — volume monitoring may be required.
- 249.1155. Septic systems to be maintained or pumped every five years — proof submitted — fee.
- 640.635. Wastewater analysis, license required, criteria — rulemaking authority — fee, rate.
- 644.076. Unlawful acts prohibited — false statements and negligent acts prohibited — penalties — exception.
- 701.031. Disposal of sewage, who, how, exception.
- 701.033. Department of health and senior services — powers and duties — rules, procedure.
- 701.037. Violations, notice of, contents, prosecuting attorney to institute proceedings, when — emergency situation, when.
- 701.038. Sewage complaints, investigation by department, when — right to inspect adjoining property, procedure requiring notice, exception.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 644.076, 701.031, 701.033, 701.037, and 701.038, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 249.1150, 249.1152, 249.1154, 249.1155, 640.635, 644.076, 701.031, 701.033, 701.037, and 701.038, to read as follows:

249.1150. DISTRICT AUTHORIZED, POWERS — RESOLUTION MAY BE ADOPTED BY COUNTY COMMISSION FOR SERVICE BY DISTRICT — BOARD OF TRUSTEES, MEMBERS, TERMS — MAINTENANCE PLAN REQUIRED, WHEN — PROPERTY TAX LEVY, BALLOT FORM — TERMINATION OF TAX, PROCEDURE (BARRY, CHRISTIAN, DOUGLAS, GREENE, OZARK, STONE, TANEY, WEBSTER, AND WRIGHT COUNTIES). — **1. There is hereby created within any county of the third classification without a township form of government and with more than thirty-four thousand but less than thirty-four thousand one hundred inhabitants, any county of the second classification without a township form of government and with more than fifty-four thousand two hundred but less than fifty-four**

thousand three hundred inhabitants, any county of the third classification without a township form of government and with more than thirteen thousand seventy-five but less than thirteen thousand one hundred seventy-five inhabitants, any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants, any county of the third classification without a township form of government and with more than nine thousand four hundred fifty but less than nine thousand five hundred fifty inhabitants, any county of the third classification without a township form of government and with more than twenty-eight thousand six hundred but less than twenty-eight thousand seven hundred inhabitants, any county of the first classification with more than thirty-nine thousand seven hundred but less than thirty-nine thousand eight hundred inhabitants, any county of the third classification without a township form of government and with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants, and any county of the third classification without a township form of government and with more than seventeen thousand nine hundred but less than eighteen thousand inhabitants, the Upper White River Basin Watershed Improvement District. The watershed improvement district is authorized to own, install, operate, and maintain decentralized or individual on-site wastewater treatment plants. The watershed improvement district created under this section shall be a body corporate and a political subdivision of the state of Missouri, shall be capable of suing and being sued in contract in its corporate name, and shall be capable of holding such real and personal property necessary for corporate purposes. The district shall implement procedures to regulate the area within the district and to educate property owners within the district about the requirements imposed by the district.

2. The watershed improvement district created under this section shall have the power to borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property within the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property within the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

3. The county commission of any county located within the watershed improvement district may authorize individual properties to be served by the district by adoption of a resolution or upon the filing of a petition signed by at least twenty percent of the property owners of the proposed area. The resolution or petition shall describe generally the size and location of the proposed area.

4. In the event that any property within the watershed improvement district proposed under this section lies within or is serviced by any existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo, the property shall not become

part of the watershed improvement district formed under this section unless the existing sewer district agrees to refrain from providing service or to discontinue service to the property. No property shall become part of the watershed district until the owner of that property has paid in full all outstanding costs owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

5. Upon the creation of the watershed improvement district as authorized by this section, a board of trustees for the district consisting of nine members shall be appointed. The governing body of each county shall appoint one member to serve on the board. No trustee shall reside in the same county as another trustee. Of the initial trustees appointed, five shall serve terms of one year, and four shall serve terms of two years, as determined by lot. After the initial appointments of the trustees, the successor trustees shall reside in the same county as the prior trustee and be elected by the resident property owners of their county within the district. Each trustee may be elected to no more than five consecutive two-year terms. Vacancies shall be filled by the board. Each trustee shall serve until a successor is elected and sworn. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership. The board shall enter into contracts with any person or entity for the maintenance, administrative, or support work required to administer the district. The board may charge reasonable fees and submit proposals to levy and impose property taxes to fund the operation of the district to the qualified voters in the district, but such proposals shall not become effective unless a majority of the qualified voters in the district voting on the proposals approve the proposed levy and rate of tax. The board may adopt resolutions necessary to the operation of the district.

6. No service shall be initiated to any property lying within the watershed improvement district created under this section unless the property owner elects to have the service provided by the district.

7. Any on-site wastewater treatment system installed on any property that participates in the watershed improvement district formed under this section shall meet all applicable standards for such on-site wastewater treatment systems under sections 701.025 to 701.059, RSMo, and as required by rules or regulations promulgated by the board of trustees and the appropriate state agencies.

8. Property owners participating in the watershed improvement district formed under this section shall be required as a condition of continued participation to have a maintenance plan approved by the watershed improvement district for the on-site wastewater treatment systems on their properties. Such property owners shall also execute a utilities easement to allow the district access to the system for maintenance purposes and inspections. The property owner shall provide satisfactory proof that periodic maintenance is performed on the sewage system. At a minimum the system shall be installed and maintained according to the manufacturer's recommendations. The level of satisfactory proof required and the frequency of periodic proof shall be determined by the board of trustees.

9. A district established under this section may, at a general, or primary election, submit to the qualified voters within the district boundaries a real property tax that shall not exceed five cents per one hundred dollars assessed valuation to fund the operation of the district. The ballot of submission shall be in substantially the following form:

Shall the (name of district) impose a real property tax within the district at a rate of not more than (insert amount) dollars per hundred dollars of assessed valuation to fund the operation of the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast in each county that is part of the district favor the proposal, then the real property tax shall become effective in the district on the first day of the year following the year of the election. If a majority of the votes cast in each county that is a part of the district oppose the proposal, then that county shall not impose the real property tax authorized in this section until after the county governing body has submitted another such real property tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a real property tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

10. The real property tax authorized by this section is in addition to all other real property taxes allowed by law.

11. Once the real property tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the tax. The tax shall not be abolished or terminated while the district has any financing or other obligations outstanding. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities.

249.1152. RESOLUTION OR PETITION, CONTENTS — COUNTY ORDER OR ORDINANCE, CONTENTS — HEARING PROCEDURES — PROPERTY TAX LEVY, BALLOT FORM — BOARD OF TRUSTEES CREATED, MEMBERS, TERMS — AUTHORITY OF DISTRICT — DISSOLUTION OF A DISTRICT, PROCEDURES. — 1. Upon the adoption of a resolution by the governing body of any county of the third classification located within any watershed in this state, or upon the filing of a petition by the property owners residing within the portion of the watershed that is located within the county's boundaries, a watershed improvement district may be proposed as authorized in this section. The resolution or the petition shall contain the following information:

(1) The specific description of the watershed, which shall be identical to any United States geological survey designated watershed, and the proposed district within the county including a map illustrating the boundaries of both the watershed and the proposed district;

(2) The name of the proposed district;

(3) If the creation of the district is proposed by petition filed by property owners, the name and residence of each petitioner; and

(4) The purpose of the district.

2. Upon the adoption of a resolution proposing the creation of the district under this section, the governing body of the county shall, by order or ordinance, provide a hearing on the creation of the district. The order or ordinance providing a hearing on the creation of such a district shall contain the following information:

(1) A description of the boundaries of the proposed district; and

(2) The time and place of a hearing to be held to consider establishment of the proposed district.

3. Whenever a hearing is held as provided by this section, the governing body of the county approving the proposed district shall:

(1) Publish notice of the hearing on two separate occasions in at least one newspaper of general circulation in each county located within the proposed district, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing. The purpose of the district shall be published in the hearing notice;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Rule upon all protests, which determinations shall be final.

4. Following the hearing, if the governing body of any county located within the proposed district decides to establish the proposed district, the county shall adopt an order to that effect. If the governing body of any county located within the proposed district receives a petition signed by at least twenty percent of the property owners in the proposed district requesting establishment of the proposed district then the county shall adopt an order to that effect. An order adopted under this subsection shall contain the following:

(1) The description of the boundaries of the watershed, which shall be identical to any United States geological survey designated watershed, and the boundaries of the district within the county;

(2) A statement that a watershed improvement district has been established;

(3) The name of the district;

(4) A declaration that the district is a political subdivision of the state; and

(5) The purpose of the district.

5. A district established under this section may, at a general or primary election, submit to the qualified voters within the district boundaries a real property tax that shall not exceed five cents per one hundred dollars assessed valuation to fund the operation of the district. The ballot of submission shall be in substantially the following form:

Shall the (name of district) impose a real property tax within the district at a rate of not more than (insert amount) dollars per hundred dollars of assessed valuation to fund the operation of the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast in each county that is part of the district favor the proposal, then the real property tax shall become effective in the district on the first day of the year following the year of the election. If a majority of the votes cast in each county that is a part of the district oppose the proposal, then that county shall not impose the real property tax authorized in this section until after the county governing body has submitted another such real property tax proposal and the proposal is approved by a majority of the qualified voters voting thereon. However, if a real property tax proposal is not approved, the governing body of the county shall not resubmit a proposal to the voters under this section sooner than twelve months from the date of the last proposal submitted under this section.

6. The real property tax authorized by this section is in addition to all other real property taxes allowed by law.

7. Once the real property tax authorized by this section is abolished or terminated by any means, all funds remaining in the trust fund shall be used solely for the purposes approved in the ballot question authorizing the tax. The tax shall not be abolished or terminated while the district has any financing or other obligations outstanding. Any funds in the trust fund which are not needed for current expenditures may be invested by the district in the securities described in subdivisions (1) to (12) of subsection 1 of section 30.270, RSMo, or repurchase agreements secured by such securities.

8. There is hereby created a board of trustees to administer any district created and the expenditure of revenue generated under this section. The board shall consist of at least three but not more than ten individuals from the district. The board shall be appointed by the governing body of each county in the district. The membership of the board shall to the extent practicable be in proportion to the number of people living in the watershed in each county. Each county located within the district shall be represented on the board by at least one trustee. Of the initial trustees appointed from each county, a majority shall serve terms of one year, and the remainder shall serve terms of two years, as determined by lot. After the initial appointments of the trustees, the trustees shall be elected by the

property owners within the district. Each trustee may be elected to no more than five consecutive two-year terms. Vacancies shall be filled by the board. Each trustee shall serve until a successor is elected and sworn. The trustees shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses. The board shall elect a chair and other officers necessary for its membership.

9. A watershed improvement district created under this section is authorized to own, install, operate, and maintain decentralized or individual on-site wastewater treatment plants. A watershed improvement district created under this section shall be a body corporate and a political subdivision of the state of Missouri, shall be capable of suing and being sued in contract in its corporate name, and shall be capable of holding such real and personal property necessary for corporate purposes. The district shall implement procedures to regulate the area within and consistent with the purpose of the district and to educate property owners about the requirements imposed by the district.

10. A watershed improvement district created under this section shall have the power to borrow money and incur indebtedness and evidence the same by certificates, notes, or debentures, to issue bonds and use any one or more lawful funding methods the district may obtain for its purposes at such rates of interest as the district may determine. Any bonds, notes, and other obligations issued or delivered by the district may be secured by mortgage, pledge, or deed of trust of any or all of the property within the district. Every issue of such bonds, notes, or other obligations shall be payable out of property and revenues of the district and may be further secured by other property within the district, which may be pledged, assigned, mortgaged, or a security interest granted for such payment, without preference or priority of the first bonds issued, subject to any agreement with the holders of any other bonds pledging any specified property or revenues. Such bonds, notes, or other obligations shall be authorized by resolution of the district board, and shall bear such date or dates, and shall mature at such time or times, but not in excess of thirty years, as the resolution shall specify. Such bonds, notes, or other obligations shall be in such denomination, bear interest at such rate or rates, be in such form, either coupon or registered, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places, and be subject to redemption as such resolution may provide, notwithstanding section 108.170, RSMo. The bonds, notes, or other obligations may be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

11. The county commission of any county located within a watershed improvement district may authorize individual properties to be served by the district by adoption of a resolution or upon the filing of a petition signed by at least twenty percent of the property owners of the proposed area. The resolution or petition shall describe generally the size and location of the proposed area.

12. In the event that any property within a watershed improvement district proposed under this section lies within or is serviced by any existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo, the property shall not become part of the watershed improvement district formed under this section unless the existing sewer district agrees to refrain from providing service or to discontinue service to the property. No property shall become part of the watershed district until the owner of that property has paid in full all outstanding costs owed to an existing sewer district formed under this chapter, chapter 204, or chapter 250, RSMo.

13. No service shall be initiated to any property lying within the watershed improvement district created under this section unless the property owner elects to have the service provided by the district.

14. Any on-site wastewater treatment systems installed on any property that participates in the watershed improvement district formed under this section shall meet

all applicable standards for such on-site wastewater treatment systems under sections 701.025 to 701.059, RSMo, and as required by rules or regulations promulgated by the appropriate state agencies.

15. Property owners participating in the watershed improvement district formed under this section shall be required as a condition of continued participation to have a maintenance plan approved by the watershed improvement district for the on-site wastewater treatment systems on their properties. Such property owners shall also execute a utilities easement to allow the district access to the system for maintenance purposes and inspections. The property owner shall provide satisfactory proof that periodic maintenance is performed on the sewage system. The level of satisfactory proof required and the frequency of periodic proof shall be determined by the board of trustees.

16. In the event that the district is dissolved or terminated by any means, the governing bodies of the counties in the district shall appoint a person to act as trustee for the district so dissolved or terminated. Before beginning the discharge of duties, the trustee shall take and subscribe an oath to faithfully discharge the duties of the office, and shall give bond with sufficient security, approved by the governing bodies of the counties, to the use of the dissolved or terminated district, for the faithful discharge of duties. The trustee shall have and exercise all powers necessary to liquidate the district, and upon satisfaction of all remaining obligations of the district, shall pay over to the county treasurer of each county in the district and take receipt for all remaining moneys in amounts based on the ratio the levy of each county bears to the total levy for the district in the previous three years or since the establishment of the district, whichever time period is shorter. Upon payment to the county treasurers, the trustee shall deliver to the clerk of the governing body of any county in the district all books, papers, records, and deeds belonging to the dissolved district.

249.1154. GROUNDWATER DEPLETION AREAS DESIGNATED — VOLUME MONITORING MAY BE REQUIRED. — The governing body of any county, by order or ordinance or upon the filing of a petition signed by at least twenty percent of the property owners in an area proposed for designation under this section, may designate groundwater depletion areas within a watershed improvement district created under section 249.1150 or 249.1152 and may require well volume monitoring.

249.1155. SEPTIC SYSTEMS TO BE MAINTAINED OR PUMPED EVERY FIVE YEARS — PROOF SUBMITTED — FEE. — After August 28, 2004, any county within a watershed improvement district may require that all septic systems be maintained or pumped every five years by a licensed provider. In the event a county requires that all septic systems be so maintained or pumped the owner of any septic system shall submit proof of maintenance or pumping to the county department of health or the state department of health and senior services if appropriate which shall determine what shall constitute proof of compliance with the requirement. In addition, the county department of health or the state department of health and senior services if appropriate may charge septic tank owners a reasonable fee for monitoring compliance with the requirement.

640.635. WASTEWATER ANALYSIS, LICENSE REQUIRED, CRITERIA — RULEMAKING AUTHORITY — FEE, RATE. — Any person or laboratory performing an analysis of wastewater shall be licensed to perform the analysis by the department of natural resources. The department shall determine by rule or regulation the licensing criteria. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable

and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. The department may require the person or laboratory obtaining a license under this section to pay a fee to the department for licensure. The fee shall be set at a level not to exceed the cost and expense of administering this section.

644.076. UNLAWFUL ACTS PROHIBITED — FALSE STATEMENTS AND NEGLIGENT ACTS PROHIBITED — PENALTIES — EXCEPTION. — 1. It is unlawful for any person to cause or permit any discharge of water contaminants from any water contaminant or point source located in Missouri in violation of sections 644.006 to 644.141, or any standard, rule or regulation promulgated by the commission. In the event the commission or the director determines that any provision of sections 644.006 to 644.141 or standard, rules, limitations or regulations promulgated pursuant thereto, or permits issued by, or any final abatement order, other order, or determination made by the commission or the director, or any filing requirement pursuant to sections 644.006 to 644.141 or any other provision which this state is required to enforce pursuant to any federal water pollution control act, is being, was, or is in imminent danger of being violated, the commission or director may cause to have instituted a civil action in any court of competent jurisdiction for the injunctive relief to prevent any such violation or further violation or for the assessment of a penalty not to exceed ten thousand dollars per day for each day, or part thereof, the violation occurred and continues to occur, or both, as the court deems proper. A civil monetary penalty pursuant to this section shall not be assessed for a violation where an administrative penalty was assessed pursuant to section 644.079. The commission, **the chair of a watershed district's board of trustees created under section 249.1150 or 249.1152**, or the director may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Suit may be brought in any county where the defendant's principal place of business is located or where the water contaminant or point source is located or was located at the time the violation occurred. Any offer of settlement to resolve a civil penalty pursuant to this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department pursuant to this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

2. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to sections 644.006 to 644.141 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to sections 644.006 to 644.141 shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for not more than six months, or by both.

3. Any person who willfully or negligently commits any violation set forth pursuant to subsection 1 of this section shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars nor more than twenty-five thousand dollars per day of violation, or by imprisonment for not more than one year, or both. Second and successive convictions for violation of the same provision of this section by any person shall be punished by a fine of not more than fifty thousand dollars per day of violation, or by imprisonment for not more than two years, or both.

4. The liabilities which shall be imposed pursuant to any provision of sections 644.006 to 644.141 upon persons violating the provisions of sections 644.006 to 644.141 or any standard, rule, limitation, or regulation adopted pursuant thereto shall not be imposed due to any violation caused by an act of God, war, strike, riot, or other catastrophe.

701.031. DISPOSAL OF SEWAGE, WHO, HOW, EXCEPTION. — Property owners of all buildings where people live, work or assemble shall provide for the sanitary disposal of all domestic sewage. Except as provided in this section, sewage and waste from such buildings shall be disposed of by discharging into a sewer system regulated pursuant to chapter 644, RSMo, or shall be disposed of by discharging into an on-site sewage disposal system operated as defined by rules promulgated pursuant to sections 701.025 to 701.059. **Any person installing on-site sewage disposal systems shall be registered to do so by the department of health and senior services.** The owner of a single-family residence lot consisting of three acres or more, or the owner of a residential lot consisting of ten acres or more with no single-family residence on-site sewage disposal system located within three hundred sixty feet of any other on-site sewage disposal system and no more than one single-family residence per each ten acres in the aggregate, except lots adjacent to lakes operated by the Corps of Engineers or by a public utility, shall be excluded from the provisions of sections 701.025 to 701.059 and the rules promulgated pursuant to sections 701.025 to 701.059, including provisions relating to the construction, operation, major modification and major repair of on-site disposal systems, when all points of the system are located in excess of ten feet from any adjoining property line and no effluent enters an adjoining property, contaminates surface waters or groundwater or creates a nuisance as determined by a readily available scientific method. Except as provided in this section, any construction, operation, major modification or major repair of an on-site sewage disposal system shall be in accordance with rules promulgated pursuant to sections 701.025 to 701.059, regardless of when the system was originally constructed. The provisions of subdivision (2) of subsection 1 of section 701.043 shall not apply to lots located in subdivisions under the jurisdiction of the department of natural resources which are required by a consent decree, in effect on or before May 15, 1984, to have class 1, National [Sewage] **Sanitation** Federation (NSF) aerated sewage disposal systems.

701.033. DEPARTMENT OF HEALTH AND SENIOR SERVICES — POWERS AND DUTIES — RULES, PROCEDURE. — 1. The department shall have the power and duty to:

(1) Promulgate such rules and regulations as are necessary to carry out the provisions of sections 701.025 to 701.059;

(2) Cause investigations to be made when a violation of any provision of sections 701.025 to 701.059 or the on-site sewage disposal rules promulgated under sections 701.025 to 701.059 is reported to the department;

(3) Enter at reasonable times[, after receiving a complaint] and determining probable cause that a violation exists, upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of sections 701.025 to 701.059 and the on-site sewage disposal rules promulgated under sections 701.025 to 701.059;

(4) Authorize the trial or experimental use of innovative systems for on-site sewage disposal, after consultation with the staff of the Missouri clean water commission, upon such conditions as the department may set.

2. No rule or portion of a rule promulgated under the authority of sections 701.025 to 701.059 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

701.037. VIOLATIONS, NOTICE OF, CONTENTS, PROSECUTING ATTORNEY TO INSTITUTE PROCEEDINGS, WHEN — EMERGENCY SITUATION, WHEN. — 1. Whenever the director determines[, after receipt of a complaint,] that there are reasonable grounds to believe that there has been violation of any provision of sections 701.025 to 701.059 or the rules promulgated under sections 701.025 to 701.059, the director shall give notice of such alleged violation to the person responsible, as herein provided. The notice shall:

(1) Be in writing;

(2) Include a statement of the reasons for the issuance of the notice;

(3) Allow reasonable time as determined by the director for the performance of any act it requires;

(4) Be served upon the owner, operator or contractor, as the case may require, provided that such notice or order shall be deemed to have been properly served upon such person when a copy thereof has been sent by registered or certified mail to the person's last known address, as listed in the local property tax records concerning such property, or when such person has been served with such notice by any other method authorized by the laws of this state;

(5) Contain an outline of remedial action which is required to effect compliance with sections 701.025 to 701.059 and the rules promulgated under sections 701.025 to 701.059.

2. Existing systems, as defined in section 701.025, shall not be inspected, unless the director determines[, upon receipt of a complaint,] that there are reasonable grounds to believe that there has been a violation of any provision of sections 701.025 to 701.059.

3. If an aggrieved person files a written request for a hearing within ten days of the date of receipt of a notice, a hearing shall be held within twenty days from the date of the receipt of the notice, before the department director, to review the appropriateness of the remedial action. The director shall issue a written decision within thirty calendar days of the date of the hearing. Any final decision of the director may be appealed to the administrative hearing commission in the manner provided in chapter 621, RSMo, or may at the option of the aggrieved person be appealed to the circuit court of the county wherein the offense is alleged to have occurred for a trial de novo on the merits. Any decision of the administrative hearing commission may be appealed as provided in sections 536.100 to 536.140, RSMo.

4. Any city or county that has adopted the state standard, or the department, may require a property owner to abate a nuisance or repair a malfunctioning on-site sewage disposal system on the owner's property not later than the thirtieth day from which the owner receives notification from the city, county or department of the malfunctioning system or a final written order from the director, if a hearing or hearings were held pursuant to subsections 2 and 3 of this section. If weather conditions prevent the abatement of the nuisance or repair of the system within the thirty-day period or if the owner is unable, after reasonable effort, to obtain the services of a contractor or repair service within the thirty-day period, the abatement of the nuisance or repair of the system shall be made, weather permitting, no later than sixty days after notification. Such extension for abatement or repair shall be subject to approval by the city, county or department. The department may assess an administrative penalty on the property owner of no more than fifty dollars per day for each day that the on-site sewage disposal system remains unrepaired beyond the last day permitted by this section for the abatement or repair. All administrative penalties collected by the department under the provisions of this section shall be deposited in the state treasury to the credit of the general revenue fund.

5. The prosecuting attorney of the county in which any noncompliance or violation of sections 701.025 to 701.059 or any rule promulgated under sections 701.025 to 701.059 is occurring shall, at the request of the city, county or department, institute appropriate proceedings for correction in cases of noncompliance with or violation of the provisions of sections 701.025 to 701.059 and any rules promulgated under sections 701.025 to 701.059.

6. When it is determined by the department[, after receipt of a complaint,] that an emergency exists which requires immediate action to protect the health and welfare of the public, the department is authorized to seek a temporary restraining order and injunction. Such action shall be brought at the request of the director of the department by the prosecuting attorney of the county in which the violation occurred. When such conditions are corrected and the health of the people of the state of Missouri is no longer threatened, the department shall request that such temporary restraining order and injunction be dissolved. For the purposes of this subsection, an "emergency" means any set of circumstances that constitute an imminent health hazard or the threat of an imminent health hazard as defined in section 701.025.

701.038. SEWAGE COMPLAINTS, INVESTIGATION BY DEPARTMENT, WHEN — RIGHT TO INSPECT ADJOINING PROPERTY, PROCEDURE REQUIRING NOTICE, EXCEPTION. — 1. The department of health and senior services or any of its agents may not investigate a sewage complaint except when necessary as part of a communicable disease investigation unless the complaint is received from an aggrieved party [or], an adjacent landowner, **or any two residents of the county**. The department of health and senior services or any of its agents may enter any adjoining property if necessary when they are making an inspection pursuant to this section. The necessity for entering such adjoining property shall be stated in writing and the owner of such property shall be notified before the department or any of its agents may enter, except that, if an imminent health hazard exists, such notification shall be attempted but is not required.

2. If the department or its agents make an investigation pursuant to a complaint as described in subsection 1 of this section and find that a nuisance does exist, the property owner shall comply with state and local standards when repairing or replacing the on-site sewage disposal system.

Approved June 30, 2004

HB 1440 [SCS HB 1440]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes provisions related to retirement systems.

AN ACT to repeal sections 104.020, 104.050, 104.080, 104.090, 104.103, 104.110, 104.170, 104.180, 104.255, and 251.440, RSMo, and to enact in lieu thereof twelve new sections relating to retirement.

SECTION

- A. Enacting clause.
- 104.020. System created.
- 104.050. Years of service used in calculating annuity — noncompensated absences for illness and injury, effect — withdrawal before entitled to deferred annuity, relinquishes all rights — reinstatement of forfeited creditable service, when.
- 104.080. Member may retire when — waiver of monthly annuity, when.
- 104.081. Highway patrol retirement age.
- 104.090. Normal annuity of retired member — additional allowance to patrolmen, qualifications — survivorship options — option selected prior to retirement, death of spouse, effect — spouse as beneficiary, effect.
- 104.103. Annual benefit increase, when, how computed — limitation — reversion of amount of benefit — special consultant, compensation.
- 104.110. Disability benefits, who entitled, how calculated, terminated when — medical examination required, when — proof of application for Social Security benefits — death benefit, not payable, when — board to establish definitions — annuity benefits, accrual, election — death benefit, eligibility, when — disability and death benefits payable, when.
- 104.170. Officers of board of trustees, election, terms, duties — executive director, appointment, powers and duties — process to be served on executive director.
- 104.180. Meetings of board, quorum, compensation of employees of board — service to system deemed regular duties.
- 104.255. Certain surviving spouses to become consultants — compensation — not to affect survivor's benefits or eligibility for retirement — surviving spouses not receiving payments on or after September 1, 1989.
- 251.255. Regional planning commission deemed political subdivision — retirement system eligibility.
- 251.440. Dissolution of regional commission, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 104.020, 104.050, 104.080, 104.090, 104.103, 104.110, 104.170, 104.180, 104.255, and 251.440, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 104.020, 104.050, 104.080, 104.081, 104.090, 104.103, 104.110, 104.170, 104.180, 104.255, 251.255, and 251.440, to read as follows:

104.020. SYSTEM CREATED. — There is hereby created the "**Missouri Department of Transportation [Department Employees] and Highway Patrol Employees' Retirement System**", which shall be a body corporate and an instrumentality of the state. In such system shall be vested the powers and duties specified in sections 104.010 to 104.270 and such other powers as may be necessary or proper to enable it, its officers, employees, and agents to carry out fully and effectively all the purposes of sections 104.010 to 104.270.

104.050. YEARS OF SERVICE USED IN CALCULATING ANNUITY — NONCOMPENSATED ABSENCES FOR ILLNESS AND INJURY, EFFECT — WITHDRAWAL BEFORE ENTITLED TO DEFERRED ANNUITY, RELINQUISHES ALL RIGHTS — REINSTATEMENT OF FORFEITED CREDITABLE SERVICE, WHEN. — 1. Years of service and twelfths of a year are to be used in calculating any annuity. Absences taken by an employee without compensation for sickness or injury of the employee of [less than] **up to but not more than** twelve months [may] **or for leave taken by such employee without compensation pursuant to the provisions of the Family and Medical Leave Act of 1993 shall** be counted as [continuous] **membership** service. [Absences for more than twelve months' continuous duration cancel all prior service credits unless the board of trustees grants special leave to the employee affected prior to the termination of a twelve-month absence. This subsection shall not apply to injury sustained while in the line of duty.]

2. Any member who withdraws from service before he is entitled to deferred benefits under section 104.035 forfeits, waives, and relinquishes all accrued rights in the fund, including all accrued creditable service.

3. If a former employee has forfeited creditable service for any period he shall have the period of creditable service restored only upon the completion of one continuous year of service after he again becomes an employee.

104.080. MEMBER MAY RETIRE WHEN — WAIVER OF MONTHLY ANNUITY, WHEN. — Each member may retire [at] the [end] **first** of the month **following the month** during which such member shall reach normal retirement age with a normal annuity [except that any patrolman may retire at age fifty-five with a normal annuity and shall retire at age sixty]. Notwithstanding any other provisions to the contrary, [any member who continues his employment with the transportation department or as a civilian member of the highway patrol after attaining seventy and one-half years of age shall receive service retirement benefits during the continuation of his employment if and to the extent that payment of such service retirement benefits is required by the Internal Revenue Code of 1986, as amended, and Treasury regulations promulgated thereunder; and such service retirement benefits shall be adjusted annually for additional benefits which shall accrue by reason of such continued employment in accordance with the rules and regulations of the board of trustees] **a person receiving an annuity may waive monthly annuity payments or a cost-of-living adjustment (COLA) for periods of time, provided no waiver may be contrary to applicable federal law. A waiver shall be final as to any payment or COLA waived.**

104.081. HIGHWAY PATROL RETIREMENT AGE. — **Notwithstanding any other provision of law to the contrary, any uniformed member of the highway patrol may retire at age fifty-five with four years of creditable service with a normal annuity and shall retire at age sixty.**

104.090. NORMAL ANNUITY OF RETIRED MEMBER — ADDITIONAL ALLOWANCE TO PATROLMEN, QUALIFICATIONS — SURVIVORSHIP OPTIONS — OPTION SELECTED PRIOR TO RETIREMENT, DEATH OF SPOUSE, EFFECT — SPOUSE AS BENEFICIARY, EFFECT. — 1. The normal annuity of a member shall equal one and six-tenths percent of the average compensation of the member multiplied by the number of years of creditable service of such member. In addition, the normal annuity of a uniformed member of the patrol shall be increased by thirty-three and one-third percent.

2. In addition, a uniformed member of the highway patrol who is retiring with a normal annuity after attaining normal retirement age shall receive an additional sum of ninety dollars per month as a contribution by the system until such member attains the age of sixty-five years, when such contribution shall cease. To qualify for the contribution provided in this subsection by the system, the retired uniformed member of the highway patrol is made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters. Such additional contribution shall be reduced each month by such amount earned by the retired uniformed member of the highway patrol in gainful employment. In order to qualify for the additional contribution provided in this subsection, the retired uniformed member of the highway patrol shall have been:

(1) Hired by the Missouri state highway patrol prior to January 1, 1995; and

(2) Employed by the Missouri state highway patrol or receiving long-term disability or work-related disability benefits on the day before the effective date of the member's retirement.

3. In lieu of the annuity payable to the member pursuant to section 104.100, a member whose age at retirement is [fifty] **forty-eight** or more may elect in the member's application for retirement to receive either:

Option 1. An actuarial reduction approved by the board of the member's annuity in reduced monthly payments for life during retirement with the provision that upon the member's death the reduced annuity at date of death shall be continued throughout the life of, and be paid to, the member's spouse; or

Option 2. The member's normal annuity in regular monthly payments for life during retirement with the provision that upon the member's death a survivor's benefit equal to one-half the member's normal annuity at date of death shall be paid to the member's spouse in regular monthly payments for life; or

Option 3. An actuarial reduction approved by the board of **member's** normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member's having received one hundred twenty monthly payments of the member's reduced annuity, the member's reduced allowance to which the member would have been entitled had the member lived shall be paid for the remainder of the one hundred twenty-month period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no beneficiary surviving the [retirant] **retiree**, the reserve for such allowance for the remainder of such one hundred twenty-month period shall be paid to the [retirant's] **retiree's** estate; or

Option 4. An actuarial reduction approved by the board of the member's normal annuity in reduced monthly payments for the member's life with the provision that if the member dies prior to the member having received sixty monthly payments of the member's reduced annuity, the member's reduced allowance to which the member would have been entitled had the member lived shall be paid for the remainder of the sixty-month period to such person as the member shall have nominated by written designation duly executed and filed with the board. If there is no beneficiary surviving the [retirant] **retiree**, the reserve for such allowance for the remainder of such sixty-month period shall be paid to the [retirant's] **retiree's** estate.

4. The election may be made only in the application for retirement, and such application shall be filed at least thirty days but not more than ninety days prior to the date on which the retirement of the member is to be effective, provided that if either the member or the spouse nominated to receive the survivorship payment dies before the effective date of retirement, the

election shall not be effective. If after the reduced annuity commences, the spouse predeceases the retired member, the reduced annuity continues to the retired member during the member's lifetime.

5. Effective July 1, 2000, a member may make an election under option 1 or 2 after the date retirement benefits are initiated if the member makes the election within one year from the date of marriage or July 1, 2000, whichever is later, under any of the following circumstances:

(1) The member elected to receive a normal annuity and was not eligible to elect option 1 or 2 on the date retirement benefits were initiated; or

(2) The member's annuity reverted to a normal annuity pursuant to subsection 8 of section 104.103 and the member remarried; or

(3) The member elected option 1 or 2 but the member's spouse at the time of retirement has died and the member has remarried.

6. Any person who terminates employment or retires prior to July 1, 2000, shall be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters, and for such services shall be eligible to elect to receive the benefits described in subsection 5 of this section.

7. For retirement applications filed on or after August 28, 2004, the beneficiary for either Option 1 or Option 2 of subsection 3 of this section shall be the member's spouse at the time of retirement. If the member's marriage ends after retirement as a result of a dissolution of marriage, such dissolution shall not affect the option election and the former spouse shall continue to be eligible to receive survivor benefits upon death of the member.

8. Any application for retirement shall only become effective on the first day of the month.

104.103. ANNUAL BENEFIT INCREASE, WHEN, HOW COMPUTED — LIMITATION — REVERSION OF AMOUNT OF BENEFIT — SPECIAL CONSULTANT, COMPENSATION. — 1. Each member who was employed prior to August 28, 1997, and retires on or after May 12, 1981, shall receive each year a percentage increase in the amount of benefits received by the member during the preceding year of eighty percent of the increase in the consumer price index determined in the manner hereinafter provided. Any such annual benefit increase, however, shall not exceed five percent, nor be less than four percent, and the total increase in the amount of benefits received pursuant to the provisions of this section shall not exceed sixty-five percent of the initial monthly benefit which the member received upon retirement or the benefit received immediately prior to October 1, 1986, whichever is later.

2. Each member who is employed for the first time on or after August 28, 1997, and retires shall be entitled annually to a percentage increase in the retirement benefit payable equal to eighty percent of the increase in the consumer price index. Such benefit increase, however, shall not exceed five percent of the retirement benefit payable prior to the increase.

3. Each member who is employed before August 28, 1997, and terminates employment or retires after that date shall be entitled to the annual benefit increase described in subsection 1 of this section. For such members, the annual benefit increase described in subsection 2 of this section shall not be effective until the year in which the member reaches the limit on total annual benefit increases provided by subsection 1 of this section. After that year, the member shall receive the annual benefit increase described in subsection 2 of this section.

4. Survivors of members described in subsection 2 of this section shall be entitled to the annual benefit increase described in that subsection.

5. For the purposes of this section, any increase in the consumer price index shall be determined in January of each year, based upon the percentage increase of (a) the consumer price index for the preceding calendar year over (b) the consumer price index for the calendar year immediately prior thereto. Any increase so determined shall be applied in calculating any benefit increases that become payable under this section during the calendar year in which the determination is made and in no case shall the percentage be less than zero.

6. An annual increase, if any is due under either this section or section 104.612 for special consultants with the [highways and] **Missouri department of transportation** [employees] and highway patrol **employees'** retirement system, shall be payable monthly beginning on a date specified by the board.

7. For members who retire on or after July 1, 2000, in the event such member has chosen a joint and survivor option under the provisions of section 104.090 and the member's eligible spouse **or former spouse** precedes the member in death, the member's benefit shall revert, effective the first of the month following the death of the spouse **or former spouse** regardless of when the board receives the member's written application for the benefit provided in this subsection, to an amount equal to the member's normal annuity, as adjusted for early retirement if applicable; such benefit shall include any increases the member would have received since the date of retirement had the member elected a normal annuity. [In no event shall retroactive benefits be paid.]

8. Effective on or after July 1, 2000, any retired member who had elected a joint and survivor payment option and whose **eligible spouse or former spouse** precedes or preceded the member in death shall upon application to the board be made, constituted, appointed and employed by the board as a special consultant on the problems of retirement, aging and other state matters. As a special consultant under the provisions of this subsection, the member's reduced benefit will revert to a normal annuity as adjusted for early retirement if applicable, effective the first of the month following the death of the spouse **or former spouse** regardless of when the board receives the member's written application; such benefit shall include any increases the retired member would have received since the date of retirement had the member elected a normal annuity. [In no event shall retroactive benefits be paid.]

104.110. DISABILITY BENEFITS, WHO ENTITLED, HOW CALCULATED, TERMINATED WHEN — MEDICAL EXAMINATION REQUIRED, WHEN — PROOF OF APPLICATION FOR SOCIAL SECURITY BENEFITS — DEATH BENEFIT, NOT PAYABLE, WHEN — BOARD TO ESTABLISH DEFINITIONS — ANNUITY BENEFITS, ACCRUAL, ELECTION — DEATH BENEFIT, ELIGIBILITY, WHEN — DISABILITY AND DEATH BENEFITS PAYABLE, WHEN. — 1. Any employee, regardless of the length of time of creditable service, who is affirmatively found by the board to be wholly incapable of performing the duties of the employee's or any other position in the employee's department for which the employee is suited, shall be entitled to receive disability benefits. The disability benefit provided by this subsection shall equal one and six-tenths percent of the employee's average compensation multiplied by the number of years of creditable service of the member. Effective September 1, 2003, no employee is eligible for or shall request or apply for the disability benefit provided pursuant to this subsection.

2. Any uniformed member of the highway patrol, highway patrol employee or department of transportation employee, regardless of the length of time of creditable service, who is found by the board to be disabled as a result of injuries incurred in the performance of the employee's duties, shall be entitled to receive an initial disability benefit in an amount equal to seventy percent of the compensation that the employee was receiving on the date preceding the date of disability; provided, however, that the amount of the disability benefit, plus any primary Social Security disability benefits received by such member shall not exceed ninety percent of the monthly compensation such member was receiving on the date preceding the date of disability.

3. Any disability benefits payable pursuant to this section shall be decreased by any amount paid to such member for periodic disability benefits by reason of the workers' compensation laws of this state. After termination of payment under workers' compensation, however, disability benefits shall be paid in the amount required by subsections 1, 2, 7, and 9 of this section.

4. The board of trustees may require a medical examination of a disabled member at any time by a designated physician, and benefits shall be discontinued if the board finds that such member is able to perform the duties of the member's former position or if such member refuses to submit to a medical examination. Any employee who applies for disability benefits provided

pursuant to this section shall provide medical certification acceptable to the board which shall include the date the disability commenced and the expected duration of the disability.

5. Any employee who applies for disability benefits pursuant to subsections 2 and 7 of this section shall provide proof of application for Social Security disability benefits. If Social Security disability benefits are denied, the employee shall also provide proof that the employee has requested reconsideration, and upon denial of the reconsideration, that an appeal process is prosecuted.

6. The disability benefits provided in this section shall not be paid to any member who retains or regains earning capacity as determined by the board. If a member who has been receiving disability benefits again becomes an employee, the member's disability benefits shall be discontinued.

7. The board shall also provide or contract for long-term disability benefits for those members whose disability exists or is diagnosed as being of such nature as to exist for more than one year. The benefits provided or contracted for pursuant to this subsection shall be in lieu of any other benefit provided in this section. The eligibility requirements, benefit period and amount of the disability benefits provided pursuant to this subsection shall be established by the board.

8. Definitions of disability and other rules and procedures necessary for administration of the disability benefits provided pursuant to this section shall be established by the board.

9. Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall receive the same cost-of-living increases as granted to retired members pursuant to section 104.103.

10. The state highways and transportation commission shall contribute the same amount as provided for all state employees for any person receiving disability benefits pursuant to subsection 2 of this section for medical insurance provided pursuant to section 104.270.

11. Any member who qualified for disability benefits pursuant to subsection 2 or subsection 7 of this section shall continue to accrue normal annuity benefits based on the member's rate of pay immediately prior to the date the member became disabled in accordance with sections 104.090 and 104.615 as in effect on the earlier of the date the member reaches normal retirement age or the date normal annuity payments commence.

12. A member who continues to be disabled as provided in subsection 2 or subsection 7 of this section shall continue to accrue creditable service until the member reaches normal retirement age. The maximum benefits period for benefits pursuant to subsections 2 and 7 of this section shall be established by the board. A member who is eligible to retire and does retire while receiving disability benefits pursuant to subsections 2 and 7 of this section shall receive the greater of the normal annuity or the minimum annuity determined pursuant to sections 104.090 and 104.615, as if the member had continued in the active employ of the employer until the member's normal retirement age and the member's compensation for such period had been the member's rate of pay immediately preceding the date the member became disabled.

13. Any member who was receiving disability benefits from the board prior to August 28, 1997, or any member who has submitted an application for disability benefits before August 28, 1997, and would have been eligible to receive benefits pursuant to the eligibility requirements which were applicable at the time of application shall be eligible to receive or shall continue to receive benefits in accordance with such prior eligibility requirements until the member again becomes an employee.

14. Any member receiving disability benefits pursuant to subsection 1, subsection 2 or subsection 7 of this section shall be eligible to receive death benefits pursuant to the provisions of subsection 1 of section 104.140. The death benefits provided pursuant to this subsection shall be in lieu of the death benefits available to the member pursuant to subsection 2 of section 104.140.

15. The board is authorized to contract for benefits in lieu of the benefits provided pursuant to this section.

16. To the extent that the board enters or has entered into any contract with any insurer or service organization to provide the disability benefits provided for pursuant to this section:

(1) The obligation to provide such disability benefits shall be primarily that of the insurer or service organization and secondarily that of the board;

(2) Any employee who has been denied disability benefits by the insurer or service organization and has exhausted all appeal procedures provided by the insurer or service organization may appeal such decision by filing a petition against the insurer or service organization in a court of law in the employee's county of residence; and

(3) The board and the system shall not be liable for the disability benefits provided by an insurer or service organization pursuant to this section and shall not be subject to any cause of action with regard to disability benefits or the denial of disability benefits by the insurer or service organization unless the employee has obtained judgment against the insurer or service organization for disability benefits and the insurer or service organization is unable to satisfy that judgment.

17. An employee may elect to waive the receipt of any disability benefit provided for pursuant to this section at any time.

18. Any member receiving disability benefits pursuant to subsections 1 and 2 of this section shall be eligible for a death benefit of five thousand dollars in addition to any benefits under subsection 14 of this section.

104.170. OFFICERS OF BOARD OF TRUSTEES, ELECTION, TERMS, DUTIES — EXECUTIVE DIRECTOR, APPOINTMENT, POWERS AND DUTIES — PROCESS TO BE SERVED ON EXECUTIVE DIRECTOR. — 1. The board shall elect by secret ballot one member as chair and one member as vice chair [in January] **at the first board meeting** of each year. The chair may not serve more than two consecutive terms beginning after August 13, 1988. The chair shall preside over meetings of the board and perform such other duties as may be required by action of the board. The vice chair shall perform the duties of the chair in the absence of the latter or upon the chair's inability or refusal to act.

2. The board shall appoint a full-time executive director, who shall not be compensated for any other duties under the state highways and transportation commission. The executive director shall have charge of the offices and records and shall hire such employees that the executive director deems necessary subject to the direction of the board. The executive director and all other employees of the system shall be members of the system and the board shall make contributions to provide the insurance benefits available pursuant to section 104.270 on the same basis as provided for other state employees pursuant to the provisions of section 104.515, and also shall make contributions to provide the retirement benefits on the same basis as provided for other employees pursuant to the provisions of sections 104.090 to 104.260. **The executive director is authorized to execute all documents including contracts necessary to carry out any and all actions of the board.**

3. Any summons or other writ issued by the courts of the state shall be served upon the executive director or, in the executive director's absence, on the assistant director.

104.180. MEETINGS OF BOARD, QUORUM, COMPENSATION OF EMPLOYEES OF BOARD — SERVICE TO SYSTEM DEEMED REGULAR DUTIES. — 1. The board of trustees shall meet within the state of Missouri upon the written call of the chairman or by agreement of any four members of the board. Notice of the meeting shall be delivered to all other trustees in person, or by depositing notice in a United States post office, in a properly stamped and addressed envelope, not less than six days prior to the date fixed for the meeting, **unless authorized by the board.** The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

2. Six trustees shall constitute a quorum for the transaction of business, and any official action of the board shall be based on the majority vote of the trustees present.

3. The trustees shall serve without compensation, but shall receive their necessary expenses incurred in the performance of their duties for the system.

4. The executive director and other employees of the system shall receive such salaries **or other compensation** as may be fixed by the board and their necessary travel expense within and without the state as may be authorized by the board.

5. Duties performed for the system **as board members** by the director or any **elected** employee of the state highways and transportation commission or by the superintendent of the state highway patrol or any **elected** employee or member of the patrol shall be considered duties in connection with the regular employment of such individual, and the employee shall suffer no loss in regular compensation by reason of the performance of such duties.

104.255. CERTAIN SURVIVING SPOUSES TO BECOME CONSULTANTS — COMPENSATION — NOT TO AFFECT SURVIVOR'S BENEFITS OR ELIGIBILITY FOR RETIREMENT — SURVIVING SPOUSES NOT RECEIVING PAYMENTS ON OR AFTER SEPTEMBER 1, 1989. — 1. Any spouse of a deceased member who retired prior to August 28, 1989, shall, upon application, be made, constituted, and appointed and employed by the board as a special consultant on the problems of retirement, aging, and other matters relating to spouses of deceased members of the system, and upon the request of the board shall give opinions, in writing or orally, in response to such requests of the board. As compensation for the services required by this section, spouses of deceased members of the system shall be compensated monthly in an amount subject to either the option that the member chose at the time of retirement or an amount equal to one-half of the member's benefit, whichever is greater. The above benefits shall be based upon the benefit the member was receiving at the time of death.

2. The employment provided for by this section shall in no way affect any person's eligibility for retirement or survivor benefits under the provisions of this chapter, or in any way have the effect of reducing any retirement or survivor benefits, anything to the contrary notwithstanding.

3. Other provisions of law notwithstanding, any surviving spouse not receiving a continuing payment who would have been eligible for compensation under the provisions of subsection 1 or 2 of this section on or after September 1, 1989, shall be entitled to receive compensation in a sum equal to the amount the spouse would have received had subsections 1 and 2 been in effect on September 1, 1989. **In order for a surviving spouse to be eligible for the benefits under this subsection, the retirement application of the deceased member must be filed prior to August 28, 2004.**

251.255. REGIONAL PLANNING COMMISSION DEEMED POLITICAL SUBDIVISION — RETIREMENT SYSTEM ELIGIBILITY. — **Notwithstanding the provisions of section 70.600, RSMo, to the contrary, a regional planning commission shall be considered a political subdivision for the purposes of sections 70.600 to 70.755, RSMo, and employees of a regional planning commission shall be eligible for membership in the Missouri local government employees' retirement system upon the regional planning commission becoming an "employer" as defined in subdivision (11) of section 70.600, RSMo.**

251.440. DISSOLUTION OF REGIONAL COMMISSION, PROCEDURE. — Upon receipt of certified copies of resolutions recommending the dissolution of a regional planning commission adopted by the governing bodies of a majority of the local units in the region, including the county commission of any county, part or all of which is within the region, and upon a finding that all outstanding indebtedness of the regional planning commission has been paid, **including monies owed to any retirement plan or system in which the commission participates and has pledged to pay for the unfunded accrued liability of its past and current employees,** and all unexpended funds returned to the local units which supplied them, or that adequate

provision has been made therefor, the governor shall issue a certificate of dissolution of the commission which shall thereupon cease to exist.

Approved June 24, 2004

HB 1442 [HB 1442]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the Thomas G. Tucker, Jr. Memorial Highway.

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial highway.

SECTION

- A. Enacting clause.
- 227.352. Thomas G. Tucker, Jr. Memorial Highway designated for a portion of State Route 51 located in Perry County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.352, to read as follows:

227.352. THOMAS G. TUCKER, JR. MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE ROUTE 51 LOCATED IN PERRY COUNTY. — The portion of state route 51 in Perry County from interstate highway 55 to U.S. Highway 61 shall be designated the "Thomas G. Tucker, Jr. Memorial Highway".

Approved July 2, 2004

HB 1444 [HB 1444]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals current requirement for legislative committees to have resolutions passed authorizing visits to state institutions.

AN ACT to repeal section 21.190, RSMo, relating to legislative committees.

SECTION

- A. Enacting clause.
- 21.190. Visiting committees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 21.190, RSMo, is repealed.

[21.190. VISITING COMMITTEES. — No committee of either or of both branches of the general assembly of the state of Missouri shall visit any state institution as a committee, without a resolution authorizing it so to do.]

Approved July 2, 2004

HB 1449 [HCS HB 1449]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates additional special license plates.

AN ACT to amend chapter 301, RSMo, by adding thereto two new sections relating to special license plates.

SECTION

A. Enacting clause.

301.3078. Operation Iraqi Freedom special license plate, application, fee.

301.3132. Missouri Society of Professional Engineers special license plates, application, fee.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 301, RSMo, is amended by adding thereto two new sections, to be known as sections 301.3078 and 301.3132, to read as follows:

301.3078. OPERATION IRAQI FREEDOM SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who served in the military operation known as Operation Iraqi Freedom and either currently serves in any branch of the United States armed forces or was honorably discharged from such service may apply for Operation Iraqi Freedom motor vehicle license plates, for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the license plates authorized by this section on a form provided by the director of revenue and furnish such proof of service in Operation Iraqi Freedom and status as currently serving in a branch of the armed forces of the United States or as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility, payment of a fifteen-dollar fee in addition to the regular registration fees and presentation of documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director, with the words "OPERATION IRAQI FREEDOM VETERAN" in place of the words "SHOW-ME STATE". Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. There shall be no limit on the number of license plates any person qualified pursuant to this section may obtain so long as each set of license plates issued pursuant to this section is issued for vehicles owned solely or jointly by such person. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3132. MISSOURI SOCIETY OF PROFESSIONAL ENGINEERS SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any member of Missouri Society of Professional Engineers may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Missouri Society of Professional Engineers Educational Foundation. Missouri Society of Professional

Engineers hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Missouri Society of Professional Engineers Educational Foundation derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Missouri Society of Professional Engineers Educational Foundation and shall be deposited into the society's educational fund. Any member of Missouri Society of Professional Engineers may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Missouri Society of Professional Engineers Educational Foundation, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Missouri Society of Professional Engineers and the words "MISSOURI SOCIETY OF PROFESSIONAL ENGINEERS" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri Society of Professional Engineers' emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Society of Professional Engineers' emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved July 1, 2004

HB 1453 [CCS SS SCS HS HCS HB 1453]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts and modifies various provisions regarding the state foster care system.

AN ACT to repeal sections 26.740, 43.503, 43.530, 43.540, 135.327, 167.020, 192.016, 207.050, 207.060, 210.025, 210.102, 210.109, 210.110, 210.145, 210.150, 210.152, 210.153, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 302.272, 431.056, 452.375, 452.400, 452.402, 452.423, 452.455, 453.020, 453.025, 453.030, 453.060, 453.110, 475.024, 487.100, 491.075, 492.304, 537.046, and 701.336, RSMo, and to enact in lieu thereof seventy-nine new sections relating to foster care and protection of children, with penalty provisions and an emergency clause for certain sections.

SECTION

A. Enacting clause.

- 37.699. Dominic James Memorial Foster Care Reform Act, statutes involved.
 - 37.700. Definitions.
 - 37.705. Office established — appointment of child advocate.
 - 37.710. Access to information — authority of office — confidentiality of information.
 - 37.715. Complaint procedures — annual report, contents.
 - 37.725. Files may be disclosed at discretion of child advocate, exceptions — privileged information — penalty for disclosure of confidential material.
 - 37.730. Immunity from liability, when.
 - 43.503. Arrest, charge and disposition of misdemeanors and felonies to be sent to highway patrol — procedure for certain juveniles.
 - 43.530. Fees, method of payment — criminal record system fund, established — fund not to lapse.
 - 43.540. Criminal record review — definitions — patrol to conduct review, when, procedure, confidentiality, violation, penalty — patrol to provide forms.
 - 135.327. Special needs child adoption tax credit — nonrecurring adoption expenses, amount — individual and business entities tax credit, amount — assignment of tax credit, when — report to general assembly.
 - 167.020. Registration requirements — residency — homeless child or youth defined — recovery of costs, when — records to be requested, provided, when.
 - 168.283. Criminal background checks required for school personnel, when, procedure — rulemaking authority.
 - 191.748. Shaken baby syndrome video, required viewing, when.
 - 192.016. Putative father registry.
 - 207.050. County family services commission — qualifications, appointment, terms, expenses, vacancies, duties.
 - 207.060. County offices — director — agreements with subdivisions — other employees.
 - 207.085. Division employee dismissal, when — mitigating factors.
 - 208.647. Special health care needs, waiver of waiting period for coverage.
 - 210.025. Criminal background checks, persons receiving state or federal funds for child care, procedure — rulemaking authority.
 - 210.102. Service commission's powers and duties — coordinating board for early childhood established, members, powers.
 - 210.108. Voluntary placement agreements, children in state custody solely in need of mental health treatment — rulemaking authority.
 - 210.109. Child protection system established by children's division, duties, records, investigations or assessments and services — central registry maintained.
 - 210.110. Definitions.
 - 210.111. Identification of children receiving foster care, report to general assembly, contents.
 - 210.112. Children's services providers and agencies, contracting with, requirements — reports to general assembly — rulemaking authority.
 - 210.113. Accreditation goal, when to be achieved.
 - 210.117. Child not reunited with parents or placed in a home, when.
 - 210.127. Diligent search for biological parents required, when.
 - 210.145. Telephone hotline for reports on child abuse — division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception — chief investigator named — family support team meetings, who may attend — reporter's right to receive information — admissibility of reports in custody cases.
 - 210.147. Confidentiality of family support team meetings, exceptions — form developed for core commitments made at meetings.
 - 210.150. Confidentiality of reports and records, exceptions — violations, penalty.
 - 210.152. Reports of abuse or neglect — division to retain certain information — confidential, released only to authorized persons — report removal, when — notice of agency's determination to retain or remove, sent when — administrative review of determination — de novo judicial review.
 - 210.153. Child abuse and neglect review board, established, members, duties, records, rules.
 - 210.160. Guardian ad litem, how appointed — when — fee — volunteer advocates may be appointed to assist guardian — training program.
 - 210.183. Alleged perpetrator to be provided written description of investigation process.
 - 210.187. Child abuse and neglect services and funding, task force on children's justice to make recommendations and award grant moneys.
 - 210.188. Report to general assembly and governor, contents.
 - 210.201. Definitions.
 - 210.211. License required — exceptions.
 - 210.482. Background checks for emergency placements, requirements, exceptions — cost, paid by whom.
 - 210.487. Background checks for foster families, requirements — costs, paid by whom — rulemaking authority.
 - 210.518. Departments' duties, classification of services to children — interagency meetings for coordination of services.
 - 210.535. Foster care and adoption assistance under federal Social Security Act, amendments to plan and waivers to be submitted.
 - 210.542. Training and standards for foster parents to be provided, when — evaluation of foster parents.
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- 210.565. Relatives of child shall be given foster home placement, when — relative, defined — death or dissolution not to affect grandparents' status — specific findings required, when — age of relative not a factor, when — federal requirements to be followed for placement of Native American children.
- 210.760. Placement in foster care — division's duties — removal of children from school, restrictions.
- 210.762. Family support team meetings to be held, when — who may attend — form to be used.
- 210.903. Family care safety registry and access line established, contents.
- 210.909. Department duties — information included in registry, when — registrant notification.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
- 211.032. Child abuse and neglect hearings, when held, procedure — supreme court rules to be promulgated — transfer of school records, when.
- 211.038. Children not to be reunited with parents or placed in a home, when.
- 211.059. Rights of child when taken into custody (Miranda warning) — right of child in custody in abuse and neglect cases.
- 211.171. Hearing procedure — notification of current foster parents, preadoptive parents and relatives, when — public may be excluded, when — victim impact statement permitted, when.
- 211.181. Order for disposition or treatment of child — suspension of order and probation granted, when — community organizations, immunity from liability, when — length of commitment may be set forth — assessments, deposits, use.
- 211.319. Juvenile court records and proceedings, abuse and neglect cases, procedure.
- 211.321. Juvenile court records, confidentiality, exceptions — records of peace officers, exceptions, release of certain information to victim.
- 302.272. School bus permit, qualifications — permit renewal, when — fee — temporary permits — grounds for refusal to issue or renew permit — criminal record checks of applicants.
- 431.056. Minor's ability to contract for certain purposes — conditions.
- 452.375. Custody — definitions — factors determining custody — prohibited, when — public policy of state — custody options plan, when required — findings required, when — exchange of information and right to certain records, failure to disclose — fees, costs assessed, when — joint custody not to preclude child support — support, how determined — domestic violence or abuse, specific findings.
- 452.400. Visitation rights, awarded when — history of domestic violence, consideration of — prohibited, when — modification of, when — supervised visitation defined — noncompliance with order, effect of — family access motions, procedure, penalty for violation — attorney fees and costs assessed, when.
- 452.402. Grandparent's visitation rights granted, when, terminated, when — guardian ad litem appointed, when — attorney fees and costs assessed, when.
- 452.423. Guardian ad litem appointed, when, duties — disqualification, when — fees — volunteer advocates, expenses.
- 452.455. Petition for modification — procedure — child support delinquency, effect of.
- 453.020. Petition — guardian ad litem appointed — fee.
- 453.025. Appointment of guardian ad litem, when — fee — duties of guardian ad litem.
- 453.030. Approval of court required — how obtained, consent of child and parent required, when — validity of consent — withdrawal of consent — forms, developed by department, contents — court appointment of attorney, when.
- 453.060. Service on parties, how accomplished — petitioners' names not to appear on copy of petition served with summons, when — right of appeal — waiver of service — putative father unknown, procedure.
- 453.061. Conception of a child, man deemed to be on notice, when.
- 453.110. Prohibiting transfer of custody of child — exception — penalty — investigation and report — transfer of custody order issued, when.
- 475.024. Temporary delegation of powers by parent — exceptions.
- 487.100. Mediation, counseling, home study may be recommended — costs.
- 491.075. Statement of child under fourteen admissible, when.
- 492.304. Visual and aural recordings of child under fourteen admissible, when.
- 537.046. Childhood sexual abuse, injury or illness defined — action for damages may be brought, when.
- 701.336. Department to cooperate with federal government — information to be provided to certain persons — lead testing of children, strategy to increase number.
 - 1. Nonoffending parent, child returned to custody of, when.
 - 2. Severability clause.
- 26.740. Child abuse, custody and neglect commission created, members, terms — reports — expiration date.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 26.740, 43.503, 43.530, 43.540, 135.327, 167.020, 192.016, 207.050, 207.060, 210.025, 210.102, 210.109, 210.110, 210.145, 210.150, 210.152, 210.153, 210.160, 210.183, 210.201, 210.211, 210.518, 210.565, 210.760, 210.903, 210.909, 211.031, 211.032, 211.059, 211.171, 211.181, 211.321, 302.272, 431.056, 452.375,

452.400, 452.402, 452.423, 452.455, 453.020, 453.025, 453.030, 453.060, 453.110, 475.024, 487.100, 491.075, 492.304, 537.046, and 701.336, RSMo, are repealed and seventy-nine new sections enacted in lieu thereof, to be known as sections 37.699, 37.700, 37.705, 37.710, 37.715, 37.725, 37.730, 43.503, 43.530, 43.540, 135.327, 167.020, 168.283, 191.748, 192.016, 207.050, 207.060, 207.085, 208.647, 210.025, 210.102, 210.108, 210.109, 210.110, 210.111, 210.112, 210.113, 210.117, 210.127, 210.145, 210.147, 210.150, 210.152, 210.153, 210.160, 210.183, 210.187, 210.188, 210.201, 210.211, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565, 210.760, 210.762, 210.903, 210.909, 211.031, 211.032, 211.038, 211.059, 211.171, 211.181, 211.319, 211.321, 302.272, 431.056, 452.375, 452.400, 452.402, 452.423, 452.455, 453.020, 453.025, 453.030, 453.060, 453.061, 453.110, 475.024, 487.100, 491.075, 492.304, 537.046, 701.336, 1, and 2, to read as follows:

37.699. DOMINIC JAMES MEMORIAL FOSTER CARE REFORM ACT, STATUTES INVOLVED. — Sections 37.700 to 37.730, 168.283, 191.748, 207.085, 210.109, 210.110, 210.111, 210.112, 210.113, 210.127, 210.145, 210.147, 210.150, 210.152, 210.153, 210.160, 210.183, 210.187, 210.188, 210.482, 210.487, 210.518, 210.535, 210.542, 210.565, 210.760, 210.762, 211.031, 211.032, 211.059, 211.319, and 537.046, RSMo, shall be known and may be cited as the "Dominic James Memorial Foster Care Reform Act of 2004".

37.700. DEFINITIONS. — As used in sections 37.700 to 37.730, the following terms mean:

(1) "Office", the office of the child advocate for children's protection and services within the office of administration, which shall include the child advocate and staff;

(2) "Recipient", any child who is receiving child welfare services from the department of social services or its contractors, or services from the department of mental health.

37.705. OFFICE ESTABLISHED — APPOINTMENT OF CHILD ADVOCATE. — 1. There is hereby established within the office of administration the "Office of Child Advocate for Children's Protection and Services", for the purpose of assuring that children receive adequate protection and care from services, programs offered by the department of social services, or the department of mental health, or the juvenile court. The child advocate shall report directly to the commissioner of the office of administration.

2. The office shall be administered by the child advocate, who shall be appointed jointly by the governor and the chief justice of the Missouri supreme court with the advice and consent of the senate. The child advocate shall hold office for a term of six years and shall continue to hold office until a successor has been duly appointed. The advocate shall act independently of the department of social services, the department of mental health, and the juvenile court in the performance of his or her duties. The office of administration shall provide administrative support and staff as deemed necessary.

37.710. ACCESS TO INFORMATION — AUTHORITY OF OFFICE — CONFIDENTIALITY OF INFORMATION. — 1. The office shall have access to the following information:

(1) The names and physical location of all children in protective services, treatment, or other programs under the jurisdiction of the children's division, the department of mental health, and the juvenile court;

(2) All written reports of child abuse and neglect; and

(3) All current records required to be maintained pursuant to chapters 210 and 211, RSMo.

2. The office shall have the authority:

(1) To communicate privately by any means possible with any child under protective services and anyone working with the child, including the family, relatives, courts,

employees of the department of social services and the department of mental health, and other persons or entities providing treatment and services;

(2) To have access, including the right to inspect, copy and subpoena records held by the clerk of the juvenile or family court, juvenile officers, law enforcement agencies, institutions, public or private, and other agencies, or persons with whom a particular child has been either voluntarily or otherwise placed for care, or has received treatment within this state or in another state;

(3) To work in conjunction with juvenile officers and guardians ad litem;

(4) To file amicus curiae briefs on behalf of the interests of the parent or child;

(5) To initiate meetings with the department of social services, the department of mental health, the juvenile court, and juvenile officers;

(6) To take whatever steps are appropriate to see that persons are made aware of the services of the child advocate's office, its purpose, and how it can be contacted;

(7) To apply for and accept grants, gifts, and bequests of funds from other states, federal, and interstate agencies, and independent authorities, private firms, individuals, and foundations to carry out his or her duties and responsibilities. The funds shall be deposited in a dedicated account established within the office to permit moneys to be expended in accordance with the provisions of the grant or bequest; and

(8) Subject to appropriation, to establish as needed local panels on a regional or county basis to adequately and efficiently carry out the functions and duties of the office, and address complaints in a timely manner.

3. For any information obtained from a state agency or entity under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the state agency or entity providing such information to the office of child advocate. For information obtained directly by the office of child advocate under sections 37.700 to 37.730, the office of child advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the children's division regarding information obtained during an child abuse and neglect investigation resulting in an unsubstantiated report.

37.715. COMPLAINT PROCEDURES — ANNUAL REPORT, CONTENTS. — 1. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children who are recipients of the services of the departments of social services and mental health, and the juvenile court. Such procedures shall address complaints relating to the actions, inactions, or decisions of providers or their representatives, public or private child welfare agencies, social service agencies, or the courts which may adversely affect the health, safety, welfare, or rights of such recipient.

2. The office shall establish and implement procedures for the handling and, whenever possible, the resolution of complaints.

3. The office shall have the authority to make the necessary inquiries and review relevant information and records as the office deems necessary.

4. The office may recommend to any state or local agency changes in the rules adopted or proposed by such state or local agency which adversely affect or may adversely affect the health, safety, welfare, or civil or human rights of any recipient. The office shall make recommendations on changes to any current policies and procedures. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to services in the state and shall recommend to the department, courts, general assembly, and governor changes in such laws, regulations and policies deemed by the office to be appropriate.

5. The office shall inform recipients, their guardians or their families of their rights and entitlements under state and federal laws and regulations through the distribution of educational materials.

6. The office shall annually submit to the governor, the general assembly, and the Missouri supreme court a detailed report on the work of the office of the child advocate for children's protection and services. Such report shall include, but not be limited to, the number of complaints received by the office, the disposition of such complaints, the number of recipients involved in complaints, the state entities named in complaints and whether such complaints were found to be substantiated, and any recommendations for improving the delivery of services to reduce complaints or improving the function of the office of the child advocate for children's protection and services.

37.725. FILES MAY BE DISCLOSED AT DISCRETION OF CHILD ADVOCATE, EXCEPTIONS — PRIVILEGED INFORMATION — PENALTY FOR DISCLOSURE OF CONFIDENTIAL MATERIAL. — 1. Any files maintained by the advocate program shall be disclosed only at the discretion of the child advocate; except that the identity of any complainant or recipient shall not be disclosed by the office unless:

(1) The complainant or recipient, or the complainant's or recipient's legal representative, consents in writing to such disclosure; or

(2) Such disclosure is required by court order.

2. Any statement or communication made by the office relevant to a complaint received by, proceedings before, or activities of the office and any complaint or information made or provided in good faith by any person shall be absolutely privileged and such person shall be immune from suit.

3. Any representative of the office conducting or participating in any examination of a complaint who knowingly and willfully discloses to any person other than the office, or those persons authorized by the office to receive it, the name of any witness examined or any information obtained or given during such examination is guilty of a class A misdemeanor. However, the office conducting or participating in any examination of a complaint shall disclose the final result of the examination with the consent of the recipient.

4. The office shall not be required to testify in any court with respect to matters held to be confidential in this section except as the court may deem necessary to enforce the provisions of sections 37.700 to 37.730, or where otherwise required by court order.

37.730. IMMUNITY FROM LIABILITY, WHEN. — 1. Any employee or an unpaid volunteer of the office shall be treated as a representative of the office. No representative of the office shall be held liable for good faith performance of his or her official duties under the provisions of sections 37.700 to 37.730 and such representative shall be immune from suit for the good faith performance of such duties. Every representative of the office shall be considered a state employee under section 105.711, RSMo.

2. No reprisal or retaliatory action shall be taken against any recipient or employee of the departments or courts for any communication made or information given to the office. Any person who knowingly or willfully violates the provisions of this subsection is guilty of a class A misdemeanor.

43.503. ARREST, CHARGE AND DISPOSITION OF MISDEMEANORS AND FELONIES TO BE SENT TO HIGHWAY PATROL — PROCEDURE FOR CERTAIN JUVENILES. — 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.543.

2. All law enforcement agencies making misdemeanor and felony arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges,

appropriate charge codes, and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied or approved by the highway patrol or electronically in a format and manner approved by the highway patrol. All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, appropriate charge codes, and descriptions to the central repository upon its behalf.

3. In instances where an individual less than seventeen years of age and not currently certified as an adult is taken into custody for an offense which would be a felony if committed by an adult, the arresting officer shall take fingerprints for the central repository. These fingerprints shall be taken on fingerprint cards supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol. The fingerprint cards shall be so constructed that the name of the juvenile should not be made available to the central repository. The individual's name and the unique number associated with the fingerprints and other pertinent information shall be provided to the court of jurisdiction by the agency taking the juvenile into custody. The juvenile's fingerprints and other information shall be forwarded to the central repository and the courts without undue delay. The fingerprint information from the card shall be captured and stored in the automated fingerprint identification system operated by the central repository. In the event the fingerprints are found to match other tenprints or unsolved latent prints, the central repository shall notify the submitting agency who shall notify the court of jurisdiction as per local agreement.

4. Upon certification of the individual as an adult, the **certifying** court shall order a law enforcement agency to immediately fingerprint the individual. The law enforcement agency shall submit such fingerprints to the central repository within fifteen days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the clerk of the court ordering the subject fingerprinted. If the juvenile is acquitted of the crime and is no longer certified as an adult, the prosecuting attorney shall notify within fifteen days the central repository of the change of status of the juvenile. Records of a child who has been fingerprinted and photographed after being taken into custody shall be closed records as provided under section 610.100, RSMo, if a petition has not been filed within thirty days of the date that the child was taken into custody; and if a petition for the child has not been filed within one year of the date the child was taken into custody, any records relating to the child concerning the alleged offense may be expunged under the procedures in sections 610.122 to 610.126, RSMo.

5. The prosecuting attorney of each county or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol or in a manner approved by the highway patrol of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, the charge code for the offense, and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

6. The clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol or in a manner approved by the highway patrol, with all final dispositions of cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to sections 43.500 to 43.506. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the sentencing court, using such numbers as assigned by the highway patrol.

7. The clerk of the courts of each county or city not within a county shall furnish, to the department of corrections or department of mental health, court judgment and sentence documents and the state offense cycle number and the charge code of the offense which resulted in the commitment or assignment of an offender to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested, or in a manner and format mutually agreed to, within fifteen days of such disposition.

8. Information and fingerprints, and other indicia forwarded to the central repository, normally obtained from a person at the time of the arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health. A law enforcement agency or the department of corrections may fingerprint the person and obtain the necessary information at any time the subject is in custody. If at the time of disposition, the defendant has not been fingerprinted for an offense in which a fingerprint is required by statute to be collected, maintained, or disseminated by the central repository, the court shall order a law enforcement agency to fingerprint immediately the defendant. The law enforcement agency shall submit such fingerprints to the central repository without undue delay and within thirty days and shall furnish the offense cycle number associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.

9. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, legal name change, or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.543 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

43.530. FEES, METHOD OF PAYMENT — CRIMINAL RECORD SYSTEM FUND, ESTABLISHED — FUND NOT TO LAPSE. — 1. For each request requiring the payment of a fee received by the central repository, the requesting entity shall pay a fee of not more than five dollars per request for criminal history record information not based on a fingerprint search **when the requesting entity is required to obtain such information by any provision of state or federal law** and pay a fee of not more than fourteen dollars per request for criminal history record information based on a fingerprint search **when the requesting entity is required to obtain such information by any provision of state or federal law; provided that, when the requesting entity is not required to obtain such information by law, the requesting entity shall pay a fee of not more than ten dollars per request for criminal history record information not based on a fingerprint search and pay a fee of not more than twenty dollars per request for criminal history record information based on a fingerprint search.** Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, money order, or electronic payment payable to the state of Missouri-criminal record system or payment shall be made in a manner approved by the

highway patrol. The highway patrol may establish procedures for receiving requests for criminal history record information for classification and search for fingerprints, from courts and other entities, and for the payment of such requests. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually for the purposes set forth in sections 43.500 to 43.543, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

2. For purposes of obtaining criminal records prior to issuance of a school bus operator's permit pursuant to section 302.272, RSMo, and for determining eligibility for such permit, the applicant for such permit shall submit two sets of fingerprints to the director of revenue when applying for the permit. The fingerprints shall be collected in a manner approved by the superintendent of the highway patrol. The school bus permit applicant shall pay the appropriate fee described in this section and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit. Collections for records described in this subsection shall be deposited in the criminal record system fund.

43.540. CRIMINAL RECORD REVIEW — DEFINITIONS — PATROL TO CONDUCT REVIEW, WHEN, PROCEDURE, CONFIDENTIALITY, VIOLATION, PENALTY — PATROL TO PROVIDE FORMS. — 1. As used in this section, the following terms mean:

(1) "Authorized state agency", a division of state government or an office of state government designated by the statutes of Missouri to issue or renew a license, permit, certification, or registration of authority to a qualified entity;

(2) "Care", the provision of care, treatment, education, training, instruction, supervision, or recreation;

(3) "Missouri criminal record review", a review of criminal history records [or] **and** sex offender registration records pursuant to sections 589.400 to 589.425, RSMo, maintained by the Missouri state highway patrol in the Missouri criminal records repository;

(4) "National criminal record review", a review of the criminal history records maintained by the Federal Bureau of Investigation;

(5) "Patient or resident", a person who by reason of age, illness, disease or physical or mental infirmity receives or requires care or services furnished by a provider, as defined in this section, or who resides or boards in, or is otherwise kept, cared for, treated or accommodated in a facility as defined in section 198.006, RSMo, for a period exceeding twenty-four consecutive hours;

(6) "Provider", a person who:

(a) Has or may have unsupervised access to children, the elderly, or persons with disabilities; and

(b) **a.** Is employed by or seeks employment with a qualified entity; or

[(c)] **b.** Volunteers or seeks to volunteer with a qualified entity; or

[(d)] **c.** Owns or operates a qualified entity;

(7) "Qualified entity", a person, business, or organization, whether public or private, for profit, not for profit, or voluntary, that provides care, placement, or educational services for children, the elderly, or persons with disabilities as patients or residents, including a business or organization that licenses or certifies others to provide care or placement services;

(8) "Youth services agency", any public or private agency, school, or association which provides programs, care or treatment for or which exercises supervision over minors.

2. A qualified entity may obtain a Missouri criminal record review of a provider from the highway patrol by furnishing information on forms and in the manner approved by the highway patrol.

3. A qualified entity may request a Missouri criminal record review and a national criminal record review of a provider through an authorized state agency. No authorized state agency is required by this section to process Missouri or national criminal record reviews for a qualified entity, however, if an authorized state agency agrees to process Missouri and national criminal record reviews for a qualified entity, the qualified entity shall provide to the authorized state agency on forms and in a manner approved by the highway patrol the following:

(1) Two sets of fingerprints of the provider **if a national criminal record review is requested;**

(2) A statement signed by the provider which contains:

(a) The provider's name, address, and date of birth;

(b) Whether the provider has been convicted of or has pled guilty to a crime which includes a suspended imposition of sentence;

(c) If the provider has been convicted of or has pled guilty to a crime, a description of the crime, and the particulars of the conviction or plea;

(d) The authority of the qualified entity to check the provider's criminal history;

(e) The right of the provider to review the report received by the qualified entity; and

(f) The right of the provider to challenge the accuracy of the report. If the challenge is to the accuracy of the criminal record review, the challenge shall be made to the highway patrol.

4. The authorized state agency shall forward the required forms and fees to the highway patrol. The results of the record review shall be forwarded to the authorized state agency who will notify the qualified entity. The authorized state agency may assess a fee to the qualified entity to cover the cost of handling the criminal record review and may establish an account solely for the collection and dissemination of fees associated with the criminal record reviews.

5. Any information received by an authorized state agency or a qualified entity pursuant to the provisions of this section shall be used solely for internal purposes in determining the suitability of a provider. The dissemination of criminal history information from the Federal Bureau of Investigation beyond the authorized state agency or related governmental entity is prohibited. All criminal record check information shall be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

6. The highway patrol shall make available or approve the necessary forms, procedures, and agreements necessary to implement the provisions of this section.

135.327. SPECIAL NEEDS CHILD ADOPTION TAX CREDIT — NONRECURRING ADOPTION EXPENSES, AMOUNT — INDIVIDUAL AND BUSINESS ENTITIES TAX CREDIT, AMOUNT — ASSIGNMENT OF TAX CREDIT, WHEN — REPORT TO GENERAL ASSEMBLY. — 1. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

2. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo; **provided, however, that beginning on or after July 1, 2004, a minimum of fifty percent of the tax credits allowed shall be allocated for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated.** Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses

for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

3. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers **claiming the credit** for nonrecurring adoption expenses in any one fiscal year **prior to July 1, 2004**, shall not exceed two million dollars **and shall not exceed four million dollars in any one fiscal year beginning on or after July 1, 2004; provided, however, that in the first ninety days following each July first, if less than two million dollars in credits have been issued for adoption of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated, the remaining amount of the four million dollar cap shall be available for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated.**

4. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

5. The director of revenue shall establish a procedure by which, for each fiscal year, the cumulative amount of tax credits authorized in this section is equally apportioned among all taxpayers within the two categories specified in subsection 2 of this section claiming the credit in that fiscal year. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers within each category can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

6. The director of revenue shall submit to the general assembly, by January 1, 2005 and each succeeding year, information by income levels of those individual taxpayers who have qualified and claimed the credit authorized in this section, regardless of whether those taxpayers have assigned, transferred, or sold such credits. The information shall indicate the number of such taxpayers with federal adjusted gross income in the immediately preceding tax year of less than one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and including one hundred ninety thousand dollars, and of more than one hundred ninety thousand dollars.

167.020. REGISTRATION REQUIREMENTS — RESIDENCY — HOMELESS CHILD OR YOUTH DEFINED — RECOVERY OF COSTS, WHEN — RECORDS TO BE REQUESTED, PROVIDED, WHEN. — 1. As used in this section, the term "homeless child" or "homeless youth" shall mean a person less than twenty-one years of age who lacks a fixed, regular and adequate nighttime residence, including a child or youth who:

(1) Is [living on the street, in a car, tent, abandoned building or some other form of shelter not designed as a permanent home;

(2) Is living in a community shelter facility;

(3) Is living in transitional housing for less than one full year] **sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in motels, hotels, or camping grounds due to lack of alternative adequate accommodations; is living in emergency or transitional shelters; is abandoned in hospitals; or is awaiting foster care placement;**

(2) **Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;**

(3) Is living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Is a migratory child or youth who qualifies as homeless because the child or youth is living in circumstances described in subdivisions (1) to (3) of this subsection.

2. In order to register a pupil, the parent or legal guardian of the pupil or the pupil himself or herself shall provide, at the time of registration, one of the following:

(1) Proof of residency in the district. Except as otherwise provided in section 167.151, the term "residency" shall mean that a person both physically resides within a school district and is domiciled within that district. The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian; or

(2) Proof that the person registering the student has requested a waiver under subsection 3 of this section within the last forty-five days. In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within three working days of the request to register and determine whether or not the pupil may register.

3. Any person subject to the requirements of subsection 2 of this section may request a waiver from the district board of any of those requirements on the basis of hardship or good cause. Under no circumstances shall athletic ability be a valid basis of hardship or good cause for the issuance of a waiver of the requirements of subsection 2 of this section. The district board shall convene a hearing as soon as possible, but no later than forty-five days after receipt of the waiver request made under this subsection or the waiver request shall be granted. The district board may grant the request for a waiver of any requirement of subsection 2 of this section. The district board may also reject the request for a waiver in which case the pupil shall not be allowed to register. Any person aggrieved by a decision of a district board on a request for a waiver under this subsection may appeal such decision to the circuit court in the county where the school district is located.

4. Any person who knowingly submits false information to satisfy any requirement of subsection 2 of this section is guilty of a class A misdemeanor.

5. In addition to any other penalties authorized by law, a district board may file a civil action to recover, from the parent, military guardian or legal guardian of the pupil, the costs of school attendance for any pupil who was enrolled at a school in the district and whose parent, military guardian or legal guardian filed false information to satisfy any requirement of subsection 2 of this section.

6. Subsection 2 of this section shall not apply to a pupil who is a homeless child **or youth**, or a pupil attending a school not in the pupil's district of residence as a participant in an interdistrict transfer program established under a court-ordered desegregation program, a pupil who is a ward of the state and has been placed in a residential care facility by state officials, a pupil who has been placed in a residential care facility due to a mental illness or developmental disability, a pupil attending a school pursuant to sections 167.121 and 167.151, a pupil placed in a residential facility by a juvenile court, a pupil with a disability identified under state eligibility criteria if the student is in the district for reasons other than accessing the district's educational program, or a pupil attending a regional or cooperative alternative education program or an alternative education program on a contractual basis.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 7 of section 160.261, RSMo, from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records

to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g (b)(1)(E).

168.283. CRIMINAL BACKGROUND CHECKS REQUIRED FOR SCHOOL PERSONNEL, WHEN, PROCEDURE — RULEMAKING AUTHORITY. — 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses. For bus drivers, the background check conducted by the department of revenue for the issuance or renewal of a school bus permit under section 302.272, RSMo, shall satisfy the background check requirements of this section.

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

5. If, as a result of the criminal history background check mandated by this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, RSMo, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

6. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

7. Nothing in this section shall be construed to alter the standards for suspension, denial, or revocation of a certificate issued pursuant to this chapter.

8. The state board of education may promulgate rules for criminal history background checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

9. The provisions of this section shall become effective January 1, 2005.

191.748. SHAKEN BABY SYNDROME VIDEO, REQUIRED VIEWING, WHEN. — Every hospital and any health care facility licensed in this state that provides obstetrical services shall offer to all new mothers an opportunity to view with the father and other persons of the mother's choosing a video on the dangers of shaking a baby and shaken baby syndrome before the mother's discharge from the facility. Such video shall be approved by the department of health and senior services.

192.016. PUTATIVE FATHER REGISTRY. — 1. The department of health and senior services shall establish a putative father registry which shall record the names and addresses of:

(1) Any person adjudicated by a court of this state to be the father of a child born out of wedlock;

(2) Any person who has filed with the registry before or after the birth of a child out of wedlock, a notice of intent to claim paternity of the child;

(3) Any person adjudicated by a court of another state or territory of the United States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by such person or any other person.

2. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall file the acknowledgment affidavit form developed by the state registrar which shall include the minimum requirements prescribed by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. Section 652(a)(7).

3. A person filing a notice of intent to claim paternity of a child shall notify the registry of any change of address.

4. A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity *nunc pro tunc*.

5. An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

6. Lack of knowledge of the pregnancy does not excuse failure to timely file pursuant to subdivisions (b) or (c) of subdivision (2) of subsection 3 of section 453.030, RSMo.

7. Failure to timely file pursuant to subdivisions (b) or (c) of subsection 3 of section 453.030, RSMo, shall waive a man's right to withhold consent to an adoption proceeding unless:

(1) The person was led to believe through the mother's misrepresentation or fraud that:

(a) The mother was not pregnant when in fact she was; or

(b) The pregnancy was terminated when in fact the baby was born; or

(c) After the birth, the child died when in fact the child is alive; and

(2) The person upon the discovery of the misrepresentation or fraud satisfied the requirements of subdivision (b) or (c) of subsection 3 of section 453.030, RSMo, within fifteen days of that discovery.

8. The department shall, upon request and within two business days of such request, provide the names and addresses of persons listed with the registry to any court or authorized agency, or entity or person named in section 453.014, RSMo, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

[7.] **9.** The department of health and senior services shall:

(1) Prepare forms for registration of paternity and an application for search of the putative father registry;

(2) Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgment of paternity, the consequences of acknowledgment and failure to acknowledge paternity pursuant to section

453.010, RSMo, [and the address of] **a copy of a statement informing the public about the putative father registry, including, to whom and under what circumstances it applies, the time limits and responsibilities for filing, protection of paternal rights and associated responsibilities, and other provisions of this section, and a detachable form meeting the requirements of subsection 2 of this section addressed to the putative father registry.** Such pamphlet or publication shall be made available for distribution at all offices of the department of health and senior services. The department shall also provide such pamphlets or publications to the department of social services, hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request;

(3) Provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the putative father registry and its services.

10. Pursuant to subdivision (2) of subsection 9 of section 192.016, RSMo, a statement prepared by the department of health and senior services shall be contained in any pamphlet or publication informing the public about the putative father registry.

207.050. COUNTY FAMILY SERVICES COMMISSION — QUALIFICATIONS, APPOINTMENT, TERMS, EXPENSES, VACANCIES, DUTIES. — In every county there [shall] **may** be established a county family services commission to consist of four persons, two from each of the two major political parties, to be selected by the director of social services from a list submitted to the director of the department of social services by the county commission, consisting of double the number of appointments to be made. Each member of the county family services commission shall serve for a term of four years. Vacancies shall be filled in the same way in which the original appointment was made. [If the county commission fails or refuses to submit a list to the director of social services as required by this section for the appointment of members of the county family services commission within ten days after such appointments are to be made the director of social services shall make such appointments as may be necessary from a list prepared by the director of social services.] The duties of the county family services commission shall be advisory in nature with the power to examine the records of any case pending within their county and to make recommendations thereon. They shall serve without compensation, but shall be paid their traveling expenses and other necessary expense in the performance of their duty. No elective officer shall be appointed as a member of the county family services commission, and upon becoming a candidate for any elective office, such member of the county family services commission shall forthwith forfeit his **or her** position on the commission. Duties imposed by this law upon the several county commissions shall be performed in the city of St. Louis by the board of estimate and apportionment.

207.060. COUNTY OFFICES — DIRECTOR — AGREEMENTS WITH SUBDIVISIONS — OTHER EMPLOYEES. — 1. The [director of family services shall establish] **directors of the family support division and children's division shall jointly operate and maintain** a county office in every county, which may be in the charge of a county welfare director who shall have been a resident of the state of Missouri for a period of at least two years immediately prior to taking office and whose salary shall be paid from funds appropriated for the **family support division [of family services] and children's division.**

2. For the purpose of establishing and maintaining county offices, or carrying out any of the duties of the [division of family services] **divisions**, the [director of family services] **division directors** may enter into agreements with any political subdivision of this state, and as a part of such agreement, may accept moneys, services, or quarters as a contribution toward the support and maintenance of such county offices. Any funds so received shall be payable to the director of revenue and deposited in the proper special account in the state treasury, and become and be a part of state funds appropriated for the use of the [division of family services] **family support division and children's division.**

3. Other employees in the county offices shall be employed with due regard to the population of the county, existing conditions and purpose to be accomplished. Such employees shall be paid as are other employees of the [division of family services] **family support division and children's division**.

207.085. DIVISION EMPLOYEE DISMISSAL, WHEN — MITIGATING FACTORS. — 1. Any employee of the children's division, including supervisory personnel and private contractors with the division, who is involved with child protective services and purposely, knowingly, and willfully violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to the child abuse and neglect activities of the division shall be dismissed if the violation directly results in serious physical injury or death, subject to the provisions of subsection 2 of this section. The provisions of this section shall apply to merit system employees of the division, as well as all other employees of the division and private contractors with the division, and upon a showing of a violation, such employees shall be dismissed for cause, subject to the provisions of subsection 2 of this section, and shall have the right of appeal pursuant to sections 36.380 and 36.390, RSMo. For purposes of this section, a "private contractor with the division" means any private entity or community action agency with the appropriate and relevant training and expertise in delivering services to children and their families as determined by the children's division, and capable of providing direct services and other family services for children in the custody of the children's division or any such entities or agencies that are receiving state moneys for such services.

2. The provisions of sections 660.019 to 660.021, RSMo, shall apply to this section. If an employee of the division or a private contractor with the division is responsible for caseload assignments in excess of those required to attain accreditation by the Council for Accreditation for Families and Children's Services, and the employee purposely, knowingly, and willfully violates a stated or written policy of the division, any rule promulgated by the division, or any state law directly related to the child abuse and neglect activities of the division and the violation directly results in serious physical injury or death, the employee's good faith efforts to follow the stated or written policies of the division, the rules promulgated by the division, or the state laws directly related to the child abuse and neglect activities of the division shall be a mitigating factor in determining whether an employee of the division or a private contractor with the division is dismissed pursuant to subsection 1 of this section.

208.647. SPECIAL HEALTH CARE NEEDS, WAIVER OF WAITING PERIOD FOR COVERAGE. — Any child identified as having special health care needs, defined as a condition which left untreated would result in the death or serious physical injury of a child, that does not have access to affordable employer-subsidized health care insurance shall not be required to be without health care coverage for six months in order to be eligible for services under sections 208.631 to 208.657 and shall not be subject to the waiting period required under section 208.646, as long as the child meets all other qualifications for eligibility.

210.025. CRIMINAL BACKGROUND CHECKS, PERSONS RECEIVING STATE OR FEDERAL FUNDS FOR CHILD CARE, PROCEDURE — RULEMAKING AUTHORITY. — 1. To qualify for receipt of state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, an applicant and any person over the age of [eighteen] **seventeen** who is living in the applicant's home shall be required to submit to a criminal background check pursuant to section 43.540, RSMo, and a check of the central registry for child abuse established in section 210.145. Effective January 1, 2001, the requirements of this subsection or subsection 2 of this section shall be satisfied through registration with the family care safety registry established in sections 210.900 to 210.936. Any costs associated with such checks shall be paid by the applicant.

2. Upon receipt of an application for state or federal funds for providing child-care services in the home, the **family support** division [of family services] shall:

(1) Determine if a [probable cause] finding of child abuse or neglect **by probable cause prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** involving the applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home has been recorded pursuant to section 210.221 or 210.145;

(2) Determine if the applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496; and

(3) **Upon initial application, require the applicant to submit to fingerprinting and request a criminal background check of the applicant and any person over the age of [eighteen] **seventeen** who is living in the applicant's home pursuant to section 43.540, RSMo, and section 210.487, and inquire of the applicant whether any children less than seventeen years of age residing in the applicant's home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.**

3. Except as otherwise provided in subsection 4 of this section, upon completion of the background checks in subsection 2 of this section, an applicant shall be denied state or federal funds for providing child care if such applicant [or], any person over the age of [eighteen] **seventeen** who is living in the applicant's home, **and any child less than seventeen years of age who is living in the applicant's home and who the division has determined has been certified as an adult for the commission of a crime:**

(1) Has had a [probable cause] finding of child abuse or neglect **by probable cause prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** pursuant to section 210.145 **or section 210.152;**

(2) Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo, with the exception of the sale of fireworks, as defined in section 320.110, RSMo, to a child under the age of eighteen; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds.

4. An applicant shall be given an opportunity by the division to offer any extenuating or mitigating circumstances regarding the findings, refusals or violations against such applicant or any person over the age of [eighteen] **seventeen or less than seventeen** who is living in the applicant's home listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered by the division in its determination of whether to permit such applicant to receive state or federal funds for providing child care in the home.

5. An applicant who has been denied state or federal funds for providing child care in the home may appeal such denial decision in accordance with the provisions of section 208.080, RSMo.

6. If an applicant is denied state or federal funds for providing child care in the home based on the background check results for any person over the age of [eighteen] **seventeen** who is living in the applicant's home, the applicant shall not apply for such funds until such person is no longer living in the applicant's home.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies

with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

210.102. SERVICE COMMISSION'S POWERS AND DUTIES — COORDINATING BOARD FOR EARLY CHILDHOOD ESTABLISHED, MEMBERS, POWERS. — 1. It shall be the duty of the Missouri children's services commission to:

(1) Make recommendations which will encourage greater interagency coordination, cooperation, more effective utilization of existing resources and less duplication of effort in activities of state agencies which affect the legal rights and well-being of children in Missouri;

(2) Develop an integrated state plan for the care provided to children in this state through state programs;

(3) Develop a plan to improve the quality of [child day care] **children's** programs statewide. Such plan shall include, but not be limited to:

(a) Methods for promoting geographic availability and financial accessibility for all children and families in need of such services;

(b) Program recommendations for [child day care] **children's** services which include child development, education, supervision, health and social services;

(4) Design and implement evaluation of the activities of the commission in fulfilling the duties as set out in this section;

(5) Report annually to the governor with five copies each to the house of representatives and senate about its activities including, but not limited to the following:

(a) A general description of the activities pertaining to children of each state agency having a member on the commission;

(b) A general description of the plans and goals, as they affect children, of each state agency having a member on the commission;

(c) Recommendations for statutory and appropriation initiatives to implement the integrated state plan;

(d) A report from the commission regarding the state of children in Missouri.

2. There is hereby established within the children's services commission the "Coordinating Board for Early Childhood", which shall constitute a body corporate and politic, and shall include but not be limited to the following members:

(1) A representative from the governor's office;

(2) A representative from each of the following departments: health and senior services, mental health, social services, and elementary and secondary education;

(3) A representative of the judiciary;

(4) A representative of the family and community trust board (FACT);

(5) A representative from the head start program;

(6) Nine members appointed by the governor with the advice and consent of the senate who are representatives of the groups, such as business, philanthropy, civic groups, faith-based organizations, parent groups, advocacy organizations, early childhood service providers, and other stakeholders.

The coordinating board may make all rules it deems necessary to enable it to conduct its meetings, elect its officers, and set the terms and duties of its officers. The coordinating board shall elect from amongst its members a chairperson, vice chairperson, a secretary-reporter, and such other officers as it deems necessary. Members of the board

shall serve without compensation but may be reimbursed for actual expenses necessary to the performance of their official duties for the board.

3. The coordinating board for early childhood shall have the power to:

(1) Develop a comprehensive statewide long-range strategic plan for a cohesive early childhood system;

(2) Confer with public and private entities for the purpose of promoting and improving the development of children from birth through age five of this state;

(3) Identify legislative recommendations to improve services for children from birth through age five;

(4) Promote coordination of existing services and programs across public and private entities;

(5) Promote research-based approaches to services and ongoing program evaluation;

(6) Identify service gaps and advise public and private entities on methods to close such gaps;

(7) Apply for and accept gifts, grants, appropriations, loans, or contributions to the coordinating board for early childhood fund from any source, public or private, and enter into contracts or other transactions with any federal or state agency, any private organizations, or any other source in furtherance of the purpose of subsections 2 and 3 of this section, and take any and all actions necessary to avail itself of such aid and cooperation;

(8) Direct disbursements from the coordinating board for early childhood fund as provided in this section;

(9) Administer the coordinating board for early childhood fund and invest any portion of the moneys not required for immediate disbursement in obligations of the United States or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits, or other obligations of banks and savings and loan associations, or in such other obligations as may be prescribed by the board;

(10) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use, and otherwise deal with real or personal property or any interests therein, wherever situated;

(11) Sell, convey, lease, exchange, transfer or otherwise dispose of all or any of its property or any interest therein, wherever situated;

(12) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(13) Adopt, alter, or repeal by its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(14) Adopt and use an official seal;

(15) Assess or charge fees as the board determines to be reasonable to carry out its purposes;

(16) Make all expenditures which are incident and necessary to carry out its purposes;

(17) Sue and be sued in its official name;

(18) Take such action, enter into such agreements, and exercise all functions necessary or appropriate to carry out the duties and purposes set forth in this section.

4. There is hereby created the "Coordinating Board for Early Childhood Fund" which shall consist of the following:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set out in subsections 2 and 3 of this section;

(2) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(3) Any moneys received as fees authorized under subsections 2 and 3 of this section;

(4) Any moneys received as interest on deposits or as income on approved investments of the fund;

(5) Any moneys obtained from any other available source.

Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the coordinating board for early childhood fund at the end of the biennium shall not revert to the credit of the general revenue fund.

210.108. VOLUNTARY PLACEMENT AGREEMENTS, CHILDREN IN STATE CUSTODY SOLELY IN NEED OF MENTAL HEALTH TREATMENT — RULEMAKING AUTHORITY. — 1. As used in this section, "voluntary placement agreement" means a written agreement between the department of social services and a parent, legal guardian, or custodian of a child seventeen years of age or younger solely in need of mental health treatment. A voluntary placement agreement developed under a department of mental health assessment and certification of appropriateness authorizes the department of social services to administer the placement and care of a child while the parent, legal guardian, or custodian of the child retains legal custody.

2. The department of social services may enter into a cooperative interagency agreement with the department of mental health authorizing the department of mental health to administer the placement and care of a child under a voluntary placement agreement. The department of mental health is defined as a child placing agency under section 210.481 solely for children placed under a voluntary placement agreement.

3. Any function delegated from the department of social services to the department of mental health regarding the placement and care of children shall be administered and supervised by the department of social services to ensure compliance with federal and state law.

4. The departments of social services and mental health may promulgate rules under this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

210.109. CHILD PROTECTION SYSTEM ESTABLISHED BY CHILDREN'S DIVISION, DUTIES, RECORDS, INVESTIGATIONS OR ASSESSMENTS AND SERVICES — CENTRAL REGISTRY MAINTAINED. — 1. The children's division [of family services] shall establish a child protection system for the entire state.

2. The child protection system shall [seek to] promote the safety of children and the integrity and preservation of their families by conducting investigations or family assessments and providing services in response to reports of child abuse or neglect. The system shall [endeavor to] coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

3. In addition to any duties specified in section 210.145, in implementing the child protection system, the division shall:

(1) Maintain a central registry;

(2) Receive reports and establish and maintain an information system operating at all times, capable of receiving and maintaining reports;

(3) Attempt to obtain the name and address of any person making a report in all cases, after obtaining relevant information regarding the alleged abuse or neglect, although reports may be made anonymously; **except that, reports by mandatory reporters under section 210.115,**

including employees of the children's division, juvenile officers, and school personnel shall not be made anonymously, provided that the reporter shall be informed, at the time of the report, that the reporter's name and any other personally identifiable information shall be held as confidential and shall not be made public as provided under this section and section 211.319, RSMo;

(4) Upon receipt of a report, check with the information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, of any siblings, and the perpetrator, and relevant dispositional information regarding such previous reports;

(5) Provide protective or preventive services to the family and child and to others in the home to prevent abuse or neglect, to safeguard their health and welfare, and to help preserve and stabilize the family whenever possible. The juvenile court shall cooperate with the division in providing such services;

(6) Collaborate with the community to identify comprehensive local services and assure access to those services for children and families where there is risk of abuse or neglect;

(7) Maintain a record which contains the facts ascertained which support the determination as well as the facts that do not support the determination;

(8) Whenever available and appropriate, contract for the provision of children's services through children's services providers and agencies in the community; except that the state shall be the sole provider of child abuse and neglect hotline services, the initial child abuse and neglect investigation, and the initial family assessment. The division shall attempt to seek input from child welfare service providers in completing the initial family assessment. In all legal proceedings involving children in the custody of the division, the division shall be represented in court by either division personnel or persons with whom the division contracts with for such legal representation. All children's services providers and agencies shall be subject to criminal background checks pursuant to chapter 43, RSMo, and shall submit names of all employees to the family care safety registry.

As used in this subsection, "report" includes any telephone call made pursuant to section 210.145.

[4. By January 1, 1998, the division of family services shall submit documentation to the speaker of the house of representatives and the president pro tem of the senate on the success or failure of the child protection system established in this section. The general assembly may recommend statewide implementation or cancellation of the child protection system based on the success or failure of the system established in this section.

5. The documentation required by subsection 4 of this section shall include an independent evaluation of the child protection system completed according to accepted, objective research principles.]

210.110. DEFINITIONS. — As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse;

(2) "Central registry", a registry of persons where the division has found probable cause to believe **prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** or a court has substantiated through court adjudication that the individual has committed child abuse or neglect or the person has pled guilty or has been found guilty of a crime pursuant to section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime pursuant to chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is

twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025 or 573.035, RSMo, or an attempt to commit any such crimes. **Any persons placed on the registry prior to the effective date of this section, shall remain on the registry for the duration of time required by section 210.152;**

(3) "Child", any person, regardless of physical or mental condition, under eighteen years of age;

(4) **"Children's services providers and agencies", any public, quasi-public, or private entity with the appropriate and relevant training and expertise in delivering services to children and their families as determined by the children's division, and capable of providing direct services and other family services for children in the custody of the children's division or any such entities or agencies that are receiving state moneys for such services;**

(5) "Director", the director of the Missouri **children's** division [of family] **within the department of social** services;

[(5)] (6) "Division", the Missouri **children's** division [of family] **within the department of social** services;

[(6)] (7) "Family assessment and services", an approach to be developed by the **children's** division [of family services] which will provide for a prompt assessment of a child who has been reported to the division as a victim of abuse or neglect by a person responsible for that child's care, custody or control and of that child's family, including risk of abuse and neglect and, if necessary, the provision of community-based services to reduce the risk and support the family;

(8) **"Family support team meeting" or "team meeting", a meeting convened by the division or children's services provider in behalf of the family and/or child for the purpose of determining service and treatment needs, determining the need for placement and developing a plan for reunification or other permanency options, determining the appropriate placement of the child, evaluating case progress, and establishing and revising the case plan;**

[(7)] (9) "Investigation", the collection of physical and verbal evidence to determine if a child has been abused or neglected;

[(8)] (10) "Jail or detention center personnel", employees and volunteers working in any premises or institution where incarceration, evaluation, care, treatment or rehabilitation is provided to persons who are being held under custody of the law;

[(9)] (11) "Neglect", failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being;

[(10)] (12) "Probable cause", available facts when viewed in the light of surrounding circumstances which would cause a reasonable person to believe a child was abused or neglected;

[(11)] (13) **"Preponderance of the evidence", that degree of evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it or evidence which as a whole shows the fact to be proved to be more probable than not;**

(14) "Report", the communication of an allegation of child abuse or neglect to the division pursuant to section 210.115;

[(12)] (15) "Those responsible for the care, custody, and control of the child", those included but not limited to the parents or guardian of a child, other members of the child's household, or those exercising supervision over a child for any part of a twenty-four-hour day. Those responsible for the care, custody and control shall also include any adult who, based on relationship to the parents of the child, members of the child's household or the family, has access to the child.

210.111. IDENTIFICATION OF CHILDREN RECEIVING FOSTER CARE, REPORT TO GENERAL ASSEMBLY, CONTENTS. — By January 1, 2005, the children's division shall

identify all children in the custody of the division currently receiving foster care services and shall report to the general assembly the type of foster care being provided, including but not limited to care provided in a licensed foster care home, institutional setting, residential setting, independent living setting, or kinship care setting, and the status of all such children. Nothing in this section shall be construed as requiring the division to disclose the identity or precise location of any child in the custody of the division.

210.112. CHILDREN'S SERVICES PROVIDERS AND AGENCIES, CONTRACTING WITH, REQUIREMENTS — REPORTS TO GENERAL ASSEMBLY — RULEMAKING AUTHORITY. — 1. It is the policy of this state and its agencies to implement a foster care and child protection and welfare system focused on providing the highest quality of services and outcomes for children and their families. The department of social services shall implement such system subject to the following principles:

- (1) The safety and welfare of children is paramount;
- (2) Providers of direct services to children and their families will be evaluated in a uniform and consistent basis;
- (3) Services to children and their families shall be provided in a timely manner to maximize the opportunity for successful outcomes; and
- (4) Any provider of direct services to children and families shall have the appropriate and relevant training, education, and expertise to provide the highest quality of services possible which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

2. On or before July 1, 2005, and subject to appropriations, the children's division and any other state agency deemed necessary by the division shall, in consultation with the community and providers of services, enter into and implement contracts with qualified children's services providers and agencies to provide a comprehensive and deliberate system of service delivery for children and their families. Contracts shall be awarded through a competitive process and provided by children's services providers and agencies currently contracting with the state to provide such services and by public and private not-for-profit or limited liability corporations owned exclusively by not-for-profit corporations children's services providers and agencies which have:

- (1) A proven record of providing child welfare services within the state of Missouri which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004; and
- (2) The ability to provide a range of child welfare services, which may include case management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case management, planned permanent living services, and family reunification services.

No contracts shall be issued for services related to the child abuse and neglect hotline, investigations of alleged abuse and neglect, and initial family assessments. Any contracts entered into by the division shall be in accordance with all federal laws and regulations, and shall not result in the loss of federal funding. Such children's services providers and agencies under contract with the division shall be subject to all federal, state, and local laws and regulations relating to the provision of such services, and shall be subject to oversight and inspection by appropriate state agencies to assure compliance with standards which shall be consistent with the federal standards, but not less than the standards and policies used by the children's division as of January 1, 2004.

3. In entering into and implementing contracts under subsection 2 of this section, the division shall consider and direct their efforts towards geographic areas of the state, including Greene County, where eligible direct children's services providers and agencies are currently available and capable of providing a broad range of services, including case

management services, family-centered services, foster and adoptive parent recruitment and retention, residential care, family preservation services, foster care services, adoption services, relative care case management, other planned living arrangements, and family reunification services consistent with federal guidelines. Nothing in this subsection shall prohibit the division from contracting on an as-needed basis for any individual child welfare service listed above.

4. The contracts entered into under this section shall assure that:

(1) Child welfare services shall be delivered to a child and the child's family by professionals who have substantial and relevant training, education, or competencies otherwise demonstrated in the area of children and family services;

(2) Children's services providers and agencies shall be evaluated by the division based on objective, consistent, and performance-based criteria;

(3) Any case management services provided shall be subject to a case management plan established under subsection 5 of this section which is consistent with all relevant federal guidelines. The case management plan shall focus on attaining permanency in children's living conditions to the greatest extent possible and shall include concurrent planning and independent living where appropriate in accordance with the best interests of each child served and considering relevant factors applicable to each individual case as provided by law, including:

(a) The interaction and interrelationship of a child with the child's foster parents, biological or adoptive parents, siblings, and any other person who may significantly affect the child's best interests;

(b) A child's adjustment to his or her foster home, school, and community;

(c) The mental and physical health of all individuals involved, including any history of abuse of or by any individuals involved; and

(d) The needs of the child for a continuing relationship with the child's biological or adoptive parents and the ability and willingness of the child's biological or adoptive parents to actively perform their functions as parents with regard to the needs of the child;

(4) The delivery system shall have sufficient flexibility to take into account children and families on a case-by-case basis;

(5) The delivery system shall provide a mechanism for the assessment of strategies to work with children and families immediately upon entry into the system to maximize permanency and successful outcome in the shortest time possible and shall include concurrent planning. Outcome measures for private and public agencies shall be equal for each program; and

(6) Payment to the children's services providers and agencies shall be made based on the reasonable costs of services, including responsibilities necessary to execute the contract. Contracts shall provide incentives in addition to the costs of services provided in recognition of accomplishment of the case goals and the corresponding cost savings to the state. The division shall promulgate rules to implement the provisions of this subdivision.

5. Contracts entered into under this section shall require that a case management plan consistent with all relevant federal guidelines shall be developed for each child at the earliest time after the initial investigation, but in no event longer than fourteen days after the initial investigation or referral to the contractor by the division. Such case management plan shall be presented to the court and be the foundation of service delivery to the child and family. The case management plan shall, at a minimum, include:

(1) An outcome target based on the child and family situation achieving permanency or independent living, where appropriate;

(2) Services authorized and necessary to facilitate the outcome target;

(3) Timeframes in which services will be delivered; and

(4) Necessary evaluations and reporting.

In addition to any visits and assessments required under case management, services to be provided by a public or private children's services provider under the specific case

management plan may include family-centered services, foster and adoptive parent recruitment and retention, residential care, in-home services, foster care services, adoption services, relative care case services, planned permanent living services, and family reunification services. In all cases, an appropriate level of services shall be provided to the child and family after permanency is achieved to assure a continued successful outcome.

6. On or before July 15, 2006, and each July fifteenth thereafter that the project is in operation, the division shall submit a report to the general assembly which shall include:

(1) Details about the specifics of the contracts, including the number of children and families served, the cost to the state for contracting such services, the current status of the children and families served, an assessment of the quality of services provided and outcomes achieved, and an overall evaluation of the project; and

(2) Any recommendations regarding the continuation or possible statewide implementation of such project; and

(3) Any information or recommendations directly related to the provision of direct services for children and their families that any of the contracting children's services providers and agencies request to have included in the report.

7. The division shall accept as prima facie evidence of completion of the requirements for licensure under sections 210.481 to 210.511 proof that an agency is accredited by any of the following nationally recognized bodies: the Council on Accreditation of Services, Children and Families, Inc.; the Joint Commission on Accreditation of Hospitals; or the Commission on Accreditation of Rehabilitation Facilities. The division shall not require any further evidence of qualification for licensure if such proof of voluntary accreditation is submitted.

8. By February 1, 2005, the children's division shall promulgate and have in effect rules to implement the provisions of this section, and pursuant to this section, shall define implementation plans and dates. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

210.113. ACCREDITATION GOAL, WHEN TO BE ACHIEVED. — It is the intent and goal of the general assembly to have the department attain accreditation by the Council for Accreditation for Families and Children's Services within five years of the effective date of this section.

210.117. CHILD NOT REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — No child taken into the custody of the state shall be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this section shall preclude the division from exercising its discretion regarding

the placement of child in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty or nolo contendere to any offense excepted or excluded in this section.

210.127. DILIGENT SEARCH FOR BIOLOGICAL PARENTS REQUIRED, WHEN. — 1. If the location or identity of the biological parent or parents of a child in the custody of the division is unknown, the children's division shall utilize all reasonable and effective means available to conduct a diligent search for the biological parent or parents of such child.

2. For purposes of this section, "diligent search" means the efforts of the division, or an entity under contract with the division, to locate a biological parent whose identity or location is unknown, initiated as soon as the division is made aware of the existence of such parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

210.145. TELEPHONE HOTLINE FOR REPORTS ON CHILD ABUSE — DIVISION DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION CONDUCTED, WHEN, EXCEPTION — CHIEF INVESTIGATOR NAMED — FAMILY SUPPORT TEAM MEETINGS, WHO MAY ATTEND — REPORTER'S RIGHT TO RECEIVE INFORMATION — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1. The division shall [establish and maintain] **develop protocols which give priority to:**

(1) Ensuring the well-being and safety of the child in instances where child abuse or neglect has been alleged;

(2) Promoting the preservation and reunification of children and families consistent with state and federal law;

(3) Providing due process for those accused of child abuse or neglect; and

(4) **Maintaining** an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. The division shall utilize structured decision-making protocols for classification purposes of all child abuse and neglect reports. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child. All child abuse and neglect reports shall be initiated within twenty-four hours and shall be classified based upon the reported risk and injury to the child. The division shall promulgate rules regarding the structured decision-making protocols to be utilized for all child abuse and neglect reports.

3. Upon receipt of a report, the division shall **determine if the report merits investigation, including reports which if true would constitute a suspected violation of any of the following:** section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any such crimes. **The division shall immediately communicate [such report] all reports that merit investigation** to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

[3.] 4. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation[, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to commit any such crimes. The local office shall] **and** provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

[4.] 5. The local office of the division shall cause an investigation or family assessment and services approach to be initiated [immediately or no later than within twenty-four hours of receipt of the report from the division] **in accordance with the protocols established in subsection 2 of this section**, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. **If the abuse is alleged to have occurred in a school or child-care facility the division shall not meet with the child [at the child's school or child-care facility] in any school building or child-care facility building where abuse of such child is alleged to have occurred.** When the child is reported absent from the residence, the location and the well-being of the child shall be verified. **For purposes of this subsection, "child-care facility" shall have the same meaning as such term is defined in section 210.201.**

[5.] 6. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

[6.] 7. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

[7.] **8.** When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

[8.] **9.** Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

[9.] **10.** Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

11. For all family support team meetings involving an alleged victim of child abuse or neglect, the parents, legal counsel for the parents, foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate for the child shall be provided notice and be permitted to attend all such meetings. Family members, other than alleged perpetrators, or other community informal or formal service providers that provide significant support to the child and other individuals may also be invited at the discretion of the parents of the child. In addition, the parents, the legal counsel for the parents, the legal guardian or custodian and the foster parents may request that other individuals, other than alleged perpetrators, be permitted to attend such team meetings. Once a person is provided notice of or attends such team meetings, the division or the convenor of the meeting shall provide such persons with notice of all such subsequent meetings involving the child. Families may determine whether individuals invited at their discretion shall continue to be invited.

[10.] **12.** If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

[11.] **13.** If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

[12.] **14.** Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a

minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

[13.] **15.** A person required to report under section 210.115 to the division **and any person making a report of child abuse or neglect made to the division which is not made anonymously** shall be informed by the division of his **or her** right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. [A] **Such** person [required to report to the division pursuant to section 210.115] may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the [mandated] reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the [mandated] reporter within five days of the outcome of the investigation. **If the report is determined to be unsubstantiated, the reporter may request that the report be referred by the division to the office of child advocate for children's protection and services established in sections 37.700 to 37.730, RSMo. Upon request by a reporter under this subsection, the division shall refer an unsubstantiated report of child abuse or neglect to the office of child advocate for children's protection and services.**

[14.] **16.** In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However[,]:

(1) Nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made; **and**

(2) **The court may on its own motion, or shall if requested by a party to the proceeding, make an inquiry not on the record with the children's division to determine if such a report has been made. If a report has been made, the court may stay the custody proceeding until the children's division completes its investigation.**

[15.] **17.** In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

[16.] **18.** The **children's** division [of family services] is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

[17.] **19.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

210.147. CONFIDENTIALITY OF FAMILY SUPPORT TEAM MEETINGS, EXCEPTIONS — FORM DEVELOPED FOR CORE COMMITMENTS MADE AT MEETINGS. — 1. Except as

otherwise provided by law, all information provided at any family support team meeting held in relation to the removal of a child from the child's home is confidential; except that:

(1) Any parent or party may waive confidentiality for himself or herself to the extent permitted by law; and

(2) Any parent of the child shall have an absolute right to video and/or audio tape such team meetings to the extent permitted by law; and

(3) No parent or party shall be required to sign a confidentiality agreement before testifying or providing information at such team meetings. Any person, other than a parent or party, who does not agree to maintain confidentiality of the information provided at such team meetings may be excluded from all or any portion of such team meetings during which such person is not testifying or providing information.

2. The division shall be responsible for developing a form to be signed at the conclusion of any team meeting held in relation to a child removed from the home and placed in the custody of the state that reflects the core commitments made by the children's division or the convenor of the team meeting and the parents of the child or any other party. The content of the form shall be consistent with service agreements or case plans required by statute, but not the specific address of the child; whether the child shall remain in current placement or be moved to a new placement; visitation schedule for the child's family; and any additional core commitments. Any dissenting views shall be recorded and attested to on such form. The parents and any other party shall be provided with a copy of the signed document.

210.150. CONFIDENTIALITY OF REPORTS AND RECORDS, EXCEPTIONS — VIOLATIONS, PENALTY. — 1. The **children's** division [of family services] shall ensure the confidentiality of all reports and records made pursuant to sections 210.109 to 210.183 and maintained by the division, its local offices, the central registry, and other appropriate persons, officials, and institutions pursuant to sections 210.109 to 210.183. To protect the rights of the family and the child named in the report as a victim, the **children's** division [of family services] shall establish guidelines which will ensure that any disclosure of information concerning the abuse and neglect involving that child is made only to persons or agencies that have a right to such information. The division may require persons to make written requests for access to records maintained by the division. The division shall only release information to persons who have a right to such information. The division shall notify persons receiving information pursuant to subdivisions (2), (7), (8) and (9) of subsection 2 of this section of the purpose for which the information is released and of the penalties for unauthorized dissemination of information. Such information shall be used only for the purpose for which the information is released.

2. Only the following persons shall have access to investigation records contained in the central registry:

(1) Appropriate federal, state or local criminal justice agency personnel, or any agent of such entity, with a need for such information under the law to protect children from abuse or neglect;

(2) A physician or a designated agent who reasonably believes that the child being examined may be abused or neglected;

(3) Appropriate staff of the division and of its local offices, including interdisciplinary teams which are formed to assist the division in investigation, evaluation and treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services for a child referred to the provider;

(4) Any child named in the report as a victim, or a legal representative, or the parent, if not the alleged perpetrator, or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety

in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide a method for confirming or certifying that a designee is acting on behalf of a subject;

(5) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(6) A grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved in the investigation of child abuse or neglect, juvenile court or other court conducting abuse or neglect or child protective proceedings **or child custody proceedings**, and other federal, state and local government entities, or any agent of such entity, with a need for such information in order to carry out its responsibilities under the law to protect children from abuse or neglect;

(7) Any person engaged in a bona fide research purpose, with the permission of the director; provided, however, that no information identifying the child named in the report as a victim or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the child named in the report as a victim or, if the child is less than eighteen years of age, through the child's parent, or guardian provides written permission;

(8) Any child-care facility; child-placing agency; residential-care facility, including group homes; juvenile courts; public or private elementary schools; public or private secondary schools; or any other public or private agency exercising temporary supervision over a child or providing or having care or custody of a child who may request an examination of the central registry from the division for all employees and volunteers or prospective employees and volunteers, who do or will provide services or care to children. Any agency or business recognized by the division [of family services] or business which provides training and places or recommends people for employment or for volunteers in positions where they will provide services or care to children may request the division to provide an examination of the central registry. Such agency or business shall provide verification of its status as a recognized agency. Requests for examinations shall be made to the division director or the director's designee in writing by the chief administrative officer of the above homes, centers, public and private elementary schools, public and private secondary schools, agencies, or courts. The division shall respond in writing to that officer. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect;

(9) Any parent or legal guardian who inquires about a child abuse or neglect report involving a specific person or child-care facility who does or may provide services or care to a child of the person requesting the information. Request for examinations shall be made to the division director or the director's designee, in writing, by the parent or legal guardian of the child and shall be accompanied with a signed and notarized release form from the person who does or may provide care or services to the child. The notarized release form shall include the full name, date of birth and Social Security number of the person who does or may provide care or services to a child. The response shall include information pertaining to the nature and disposition of any report or reports of abuse or neglect revealed by the examination of the central registry. This response shall not include any identifying information regarding any person other than the alleged perpetrator of the abuse or neglect. The response shall be given within ten working days of the time it was received by the division;

(10) Any person who inquires about a child abuse or neglect report involving a specific child-care facility, child-placing agency, residential-care facility, public and private elementary schools, public and private secondary schools, juvenile court or other state agency. The information available to these persons is limited to the nature and disposition of any report contained in the central registry and shall not include any identifying information pertaining to any person mentioned in the report;

(11) Any state agency acting pursuant to statutes regarding a license of any person, institution, or agency which provides care for or services to children;

(12) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(13) Any person who is a tenure-track or full-time research faculty member at an accredited institution of higher education engaged in scholarly research, with the permission of the director. Prior to the release of any identifying information, the director shall require the researcher to present a plan for maintaining the confidentiality of the identifying information. The researcher shall be prohibited from releasing the identifying information of individual cases.

3. Only the following persons shall have access to records maintained by the division pursuant to section 210.152 for which the division has received a report of child abuse and neglect and which the division has determined that there is insufficient evidence or in which the division proceeded with the family assessment and services approach:

(1) Appropriate staff of the division;

(2) Any child named in the report as a victim, or a legal representative, or the parent or guardian of such person when such person is a minor, or is mentally ill or otherwise incompetent. The names or other identifying information of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. The division shall provide for a method for confirming or certifying that a designee is acting on behalf of a subject;

(3) Any alleged perpetrator named in the report, but the names of reporters shall not be furnished to persons in this category. Prior to the release of any identifying information, the division [of family services] shall determine if the release of such identifying information may place a person's life or safety in danger. If the division makes the determination that a person's life or safety may be in danger, the identifying information shall not be released. However, the investigation reports will not be released to any alleged perpetrator with pending criminal charges arising out of the facts and circumstances named in the investigation records until an indictment is returned or an information filed;

(4) Any child fatality review panel established pursuant to section 210.192 or any state child fatality review panel established pursuant to section 210.195;

(5) Appropriate criminal justice agency personnel or juvenile officer;

(6) Multidisciplinary agency or individual including a physician or physician's designee who is providing services to the child or family, with the consent of the parent or guardian of the child or legal representative of the child;

(7) Any person engaged in bona fide research purpose, with the permission of the director; provided, however, that no information identifying the subjects of the reports or the reporters shall be made available to the researcher, unless the identifying information is essential to the research or evaluation and the subject, or if a child, through the child's parent or guardian, provides written permission.

4. Any person who knowingly violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in the information system or the central registry and in reports and records made pursuant to sections 210.109 to 210.183, shall be guilty of a class A misdemeanor.

5. Nothing in this section shall preclude the release of findings or information about cases which resulted in a child fatality or near fatality. Such release is at the sole discretion of the director of the department of social services, based upon a review of the potential harm to other children within the immediate family.

210.152. REPORTS OF ABUSE OR NEGLECT — DIVISION TO RETAIN CERTAIN INFORMATION — CONFIDENTIAL, RELEASED ONLY TO AUTHORIZED PERSONS — REPORT REMOVAL, WHEN — NOTICE OF AGENCY'S DETERMINATION TO RETAIN OR REMOVE, SENT WHEN — ADMINISTRATIVE REVIEW OF DETERMINATION — DE NOVO JUDICIAL REVIEW. —

1. All identifying information, including telephone reports reported pursuant to section 210.145, relating to reports of abuse or neglect received by the division shall be retained by the division and removed from the records of the division as follows:

(1) For investigation reports contained in the central registry, identifying information shall be retained by the division;

(2) For investigation reports initiated by a person required to report pursuant to section 210.115, where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for [ten] **five** years from the date of the report. For all other investigation reports where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for two years from the date of the report. Such report shall include any exculpatory evidence known by the division, including exculpatory evidence obtained after the closing of the case. At the end of such two-year period, the identifying information shall be removed from the records of the division and destroyed;

(3) For reports where the division uses the family assessment and services approach, identifying information shall be retained by the division;

(4) For reports in which the division is unable to locate the child alleged to have been abused or neglected, identifying information shall be retained for ten years from the date of the report and then shall be removed from the records of the division.

2. Within ninety days after receipt of a report of abuse or neglect that is investigated, the alleged perpetrator named in the report and the parents of the child named in the report, if the alleged perpetrator is not a parent, shall be notified in writing of any determination made by the division based on the investigation. The notice shall advise either:

(1) That the division has determined **by a probable cause finding prior to the effective date of this section or by a preponderance of the evidence after the effective date of this section** that [there is probable cause to suspect] abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be released except to law enforcement agencies, prosecuting or circuit attorneys, or as provided in section 210.150; that the alleged perpetrator has sixty days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board as provided in subsection 3 of this section; or

(2) [There is insufficient probable cause of abuse or neglect.] **That the division has not made a probable cause finding or determined by a preponderance of the evidence that abuse or neglect exists.**

3. Any person named in an investigation as a perpetrator who is aggrieved by a determination of abuse or neglect by the division as provided in this section may seek an administrative review by the child abuse and neglect review board pursuant to the provisions of section 210.153. Such request for review shall be made within sixty days of notification of the division's decision under this section. In those cases where criminal charges arising out of facts of the investigation are pending, the request for review shall be made within sixty days from the court's final disposition or dismissal of the charges.

4. In any such action for administrative review, the child abuse and neglect review board shall sustain the division's determination if such determination [is] **was** supported by evidence

of probable cause **prior to the effective date of this section or is supported by a preponderance of the evidence after the effective date of this section** and is not against the weight of such evidence. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys and those persons providing testimony on behalf of the parties.

5. If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit court in the county in which the alleged perpetrator resides and in circuits with split venue, in the venue in which the alleged perpetrator resides, or in Cole County. If the alleged perpetrator is not a resident of the state, proper venue shall be in Cole County. The case may be assigned to the family court division where such a division has been established. The request for a judicial review shall be made within sixty days of notification of the decision of the child abuse and neglect review board decision. In reviewing such decisions, the circuit court shall provide the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may subpoena any witnesses except the alleged victim or the reporter. However, the circuit court shall have the discretion to allow the parties to submit the case upon a stipulated record.

6. In any such action for administrative review, the child abuse and neglect review board shall notify the child or the parent, guardian or legal representative of the child that a review has been requested.

210.153. CHILD ABUSE AND NEGLECT REVIEW BOARD, ESTABLISHED, MEMBERS, DUTIES, RECORDS, RULES. — 1. There is hereby created in the department of social services the "Child Abuse and Neglect Review Board", which shall provide an independent review of child abuse and neglect determinations in instances in which the alleged perpetrator is aggrieved by the decision of the **children's** division [of family services]. The division may establish more than one board to assure timely review of the determination.

2. The board shall consist of nine members, who shall be appointed by the governor with the advice and consent of the senate, and shall include:

- (1) A physician, nurse or other medical professional;
- (2) A licensed child or family psychologist, counselor or social worker;
- (3) An attorney who has acted as a guardian ad litem or other attorney who has represented a subject of a child abuse and neglect report;
- (4) A representative from law enforcement or a juvenile office.

3. Other members of the board may be selected from:

- (1) A person from another profession or field who has an interest in child abuse or neglect;
- (2) A college or university professor or elementary or secondary teacher;
- (3) A child advocate;
- (4) A parent, foster parent or grandparent.

4. The following persons may participate in a child abuse and neglect review board review:

(1) Appropriate **children's** division [of family services] staff and legal counsel for the department;

(2) The alleged perpetrator, who may be represented pro se or be represented by legal counsel. The alleged perpetrator's presence is not required for the review to be conducted. The alleged perpetrator may submit a written statement for the board's consideration in lieu of personal appearance; and

(3) Witnesses providing information on behalf of the child, the alleged perpetrator or the department. Witnesses shall only be allowed to attend that portion of the review in which they are presenting information.

5. The members of the board shall serve without compensation, but shall receive reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties.

6. All records and information compiled, obtained, prepared or maintained by the child abuse and neglect review board in the course of any review shall be confidential information.

7. The department shall promulgate rules and regulations governing the operation of the child abuse and neglect review board except as otherwise provided for in this section. These rules and regulations shall, at a minimum, describe the length of terms, the selection of the chairperson, confidentiality, notification of parties and time frames for the completion of the review.

8. Findings of probable cause to suspect **prior to the effective date of this section or findings by a preponderance of the evidence after the effective date of this section** of child abuse and neglect by the division which are substantiated by court adjudication shall not be heard by the child abuse and neglect review board.

210.160. GUARDIAN AD LITEM, HOW APPOINTED — WHEN — FEE — VOLUNTEER ADVOCATES MAY BE APPOINTED TO ASSIST GUARDIAN — TRAINING PROGRAM. — 1. In every case involving an abused or neglected child which results in a judicial proceeding, the judge shall appoint a guardian ad litem to appear for and represent:

(1) A child who is the subject of proceedings pursuant to sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo, or proceedings to determine custody or visitation rights under sections 452.375 to 452.410, RSMo; or

(2) A parent who is a minor, or who is a mentally ill person or otherwise incompetent, and whose child is the subject of proceedings under sections 210.110 to 210.165, sections 210.700 to 210.760, sections 211.442 to 211.487, RSMo, or sections 453.005 to 453.170, RSMo.

2. The guardian ad litem shall be provided with all reports relevant to the case made to or by any agency or person [and], shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, **and upon appointment by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child.** Employees of the division, officers of the court, and employees of any agency involved shall fully inform the guardian ad litem of all aspects of the case of which they have knowledge or belief.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. **The appointing judge shall have the authority to examine the general and criminal background of persons appointed as guardians ad litem, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the children such persons are appointed to represent.** The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. However, no fees as a judgment shall be taxed against a party or parties who have not been found to have abused or neglected a child or children. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. **Nonattorney volunteer advocates shall not provide legal representation. The court shall have the authority to examine the general and criminal background of persons designated as volunteer advocates, including utilization of the family care safety registry and access line pursuant to sections 210.900 to 210.937, to ensure the safety and welfare of the**

children such persons are designated to represent. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person [and], shall have access to all records of such agencies or persons relating to the child or such child's family members or placements of the child, **and upon designation by the court to a case, shall be informed of and have the right to attend any and all family support team meetings involving the child.** Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

6. Any person appointed to perform guardian ad litem duties shall have completed a training program in permanency planning **and shall advocate for timely court hearings whenever possible to attain permanency for a child as expeditiously as possible to reduce the effects that prolonged foster care may have on a child.** A nonattorney volunteer advocate shall have access to a court appointed attorney guardian ad litem should the circumstances of the particular case so require.

210.183. ALLEGED PERPETRATOR TO BE PROVIDED WRITTEN DESCRIPTION OF INVESTIGATION PROCESS. — 1. At the time of the initial investigation of a report of child abuse or neglect, the division employee conducting the investigation shall provide the alleged perpetrator with a written description of the investigation process. Such written notice shall be given substantially in the following form:

"The investigation is being undertaken by the **Children's** Division [of Family Services] pursuant to the requirements of chapter 210 of the Revised Missouri Statutes in response to a report of child abuse or neglect.

["]The identity of the person who reported the incident of abuse or neglect is confidential and may not even be known to the Division since the report could have been made anonymously.

["]This investigation is required by law to be conducted in order to enable the **Children's** Division [of Family Services] to identify incidents of abuse or neglect in order to provide protective or preventive social services to families who are in need of such services.

["]The division shall make every reasonable attempt to complete the investigation within thirty days. Within ninety days you will receive a letter from the Division which will inform you of one of the following:

["](1) That the Division has found insufficient evidence of abuse or neglect; or

["](2) That there appears to be [probable cause] **by a preponderance of the evidence reason** to suspect the existence of child abuse or neglect in the judgment of the Division and that the Division will contact the family to offer social services.

["]If the Division finds [there is probable cause] **by a preponderance of the evidence reason** to believe child abuse or neglect has occurred or the case is substantiated by court adjudication, a record of the report and information gathered during the investigation will remain on file with the Division.

["]If you disagree with the determination of the Division and feel that there is insufficient [probable cause to believe] **reason to believe by a preponderance of the evidence that** abuse or neglect has occurred, you have a right to request an administrative review at which time you may hire an attorney to represent you. If you request an administrative review on the issue, you will be notified of the date and time of your administrative review hearing by the child abuse and neglect review board. If the division's decision is reversed by the child abuse and neglect review board, the Division records concerning the report and investigation will be updated to reflect such finding. If the child abuse and neglect review board upholds the division's decision, an appeal may be filed in circuit court within sixty days of the child abuse and neglect review board's decision."

2. If the division uses the family assessment approach, the division shall at the time of the initial contact provide the parent of the child with the following information:

(1) The purpose of the contact with the family;

- (2) The name of the person responding and his **or her** office telephone number;
- (3) The assessment process to be followed during the division's intervention with the family including the possible services available and expectations of the family.

210.187. CHILD ABUSE AND NEGLECT SERVICES AND FUNDING, TASK FORCE ON CHILDREN'S JUSTICE TO MAKE RECOMMENDATIONS AND AWARD GRANT MONEYS. — 1. The task force on children's justice established by the children's division within the department of social services to recommend improvements in the area of child abuse and neglect services and provide funding for such recommendations shall provide an independent review of policies and procedures of state and local child protective services agencies, and where appropriate, specific cases, and shall evaluate the extent to which the agencies are effectively discharging their child protection responsibilities.

2. Consistent with the task force's function of reviewing applications for federal grant moneys available to the state under the Children's Justice Act which are designed to assist eligible states in implementing programs for the handling, investigation, and prosecution of child abuse cases, the task force shall consider the awarding of grant moneys which address the issues that arise from the independent review conducted by the task force pursuant to subsection 1 of this section. As authorized by the Children's Justice Act, grant moneys shall be awarded for the following categories:

- (1) Improvements to the investigative, administrative, and judicial handling of cases of child abuse and neglect;
- (2) Experimental, model, and demonstration programs for testing innovative approaches and techniques to improve the prompt and successful resolution of court proceedings or enhance the effectiveness and judicial administration action in child abuse and neglect cases; and
- (3) Reform of state laws, rules, protocols, and procedures to provide comprehensive protection for children from abuse and neglect.

3. The members of the task force shall not disclose to any person or government official any identifying information concerning a specific child protection case with respect to which the task force is providing information and shall not make public other information unless authorized by federal or state law.

4. The task force shall be provided:

- (1) Access to information on cases that the task force desires or is requested to review if such information is necessary for the task force to carry out its functions pursuant to this section; and
- (2) Upon request, assistance from the department of social services for the performance of the task force's duties.

210.188. REPORT TO GENERAL ASSEMBLY AND GOVERNOR, CONTENTS. — Beginning February 1, 2006, and each February first thereafter, the department of social services shall submit a report to the governor and the general assembly that includes the following information for the previous calendar year:

- (1) The number of children who were reported to the state of Missouri during the year as abused or neglected;
- (2) Of the number of children described in subdivision (1) of this section, the number with respect to whom such reports were substantiated or unsubstantiated;
- (3) Of the number of children described in subdivision (2) of this section:
 - (a) The number that did not receive or refused services during the year under a children's division program;
 - (b) The number that did receive services during the year under a state program; and
 - (c) The number that were removed from their families during the year by disposition of the case;

(4) The number of families that received preventive services from the state or a private service provider during the year;

(5) The number of deaths in the state during the year resulting from child abuse or neglect;

(6) Of the number of children described in subdivision (5) of this section, the number of children who were in foster care or received services from a private service provider;

(7) The number of child protective services workers responsible for the intake and screening of reports filed during the year;

(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect;

(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made;

(10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated during the year;

(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child; and

(12) The number of children in foster care who have been adopted.

210.201. DEFINITIONS. — As used in sections 210.201 to 210.257, the following terms mean:

(1) "Child", an individual who is under the age of seventeen;

(2) "Child-care facility", a house or other place conducted or maintained by any person who advertises or holds himself out as providing care for more than four children during the daytime, for compensation or otherwise, except those operated by a school system or in connection with a business establishment which provides child care as a convenience for its customers or its employees for no more than four hours per day, but a child-care facility shall not include any private or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization. **If a facility or program is exempt from licensure based on the school exception established in this subdivision, such facility or program shall submit documentation annually to the department to verify its licensure-exempt status; except that, under no circumstances shall any public or religious organization elementary or secondary school, a religious organization academic preschool or kindergarten for four- and five-year-old children, a home school, as defined in section 167.031, RSMo, a weekly Sunday or Sabbath school, a vacation Bible school or child care made available while the parents or guardians are attending worship services or other meetings and activities conducted or sponsored by a religious organization be required to submit documentation annually to the department to verify its licensure-exempt status;**

(3) "Person", any person, firm, corporation, association, institution or other incorporated or unincorporated organization;

(4) "Religious organization", a church, synagogue or mosque; an entity that has or would qualify for federal tax-exempt status as a nonprofit religious organization under Section 501(c) of the Internal Revenue Code; or an entity whose real estate on which the child-care facility is located is exempt from taxation because it is used for religious purposes.

210.211. LICENSE REQUIRED — EXCEPTIONS. — 1. It shall be unlawful for any person to establish, maintain or operate a child-care facility for children, or to advertise or hold himself

or herself out as being able to perform any of the services as defined in section 210.201, without having in effect a written license granted by the department of health and senior services; except that nothing in sections 210.203 to 210.245 shall apply to:

(1) Any person who is caring for four or fewer children. For purposes of this subdivision, children who are related by blood, marriage or adoption to such person within the third degree shall not be considered in the total number of children being cared for;

(2) Any person who has been duly appointed by a court of competent jurisdiction the guardian of the person of the child or children, or the person who has legal custody of the child or children;

(3) Any person who receives free of charge, and not as a business, for periods not exceeding ninety consecutive days, as bona fide, occasional and personal guests the child or children of personal friends of such person, and who receives custody of no other unrelated child or children;

(4) Any graded boarding school, summer camp, hospital, sanitarium or home which is conducted in good faith primarily to provide education, recreation, medical treatment, or nursing or convalescent care for children;

(5) Any child-care facility maintained or operated under the exclusive control of a religious organization. When a nonreligious organization, having as its principal purpose the provision of child-care services, enters into an arrangement with a religious organization for the maintenance or operation of a child-care facility, the facility is not under the exclusive control of the religious organization;

(6) Any residential facility or day program licensed by the department of mental health pursuant to sections 630.705 to 630.760, RSMo, which provides care, treatment and habilitation exclusively to children who have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental disability, as defined in section 630.005, RSMo; and

(7) Any nursery school.

2. Notwithstanding the provisions of subsection 1 of this section, no child-care facility shall be exempt from licensure if such facility receives any state or federal funds for providing care for children, except for federal funds for those programs which meet the requirements for participation in the Child and Adult Care Food Program pursuant to 42 U.S.C. 1766. Grants to parents for child care pursuant to sections 210.201 to 210.257 shall not be construed to be funds received by [the] a person or facility listed in subdivisions (1) and (5) of subsection 1 of this section.

210.482. BACKGROUND CHECKS FOR EMERGENCY PLACEMENTS, REQUIREMENTS, EXCEPTIONS — COST, PAID BY WHOM. — 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or children's division:

(1) May request that a local or state law enforcement agency or juvenile officer, subject to any required federal authorization, immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each person over the age of seventeen residing in the home by using the Missouri uniform law enforcement system (MULES) and the National Crime Information Center to access the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

(2) Shall determine or, in the case of the juvenile court, shall request the division to determine whether any person over the age of seventeen years residing in the home is listed on the child abuse and neglect registry.

For any children less than seventeen years of age residing in the home, the children's division shall inquire of the person with whom an emergency placement of a child will be made whether any children less than seventeen years of age residing in the home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.

2. If a name-based search has been conducted pursuant to subsection 1 of this section, within fifteen business days after the emergency placement of the child in the private home, and if the private home has not previously been approved as a foster or adoptive home, all persons over the age of seventeen residing in the home and all children less than seventeen residing in the home who the division has determined has been certified as an adult for the commission of a crime, other than persons within the second degree of consanguinity and affinity to the child, shall report to a local law enforcement agency for the purpose of providing two sets of fingerprints each and accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. Results of the checks will be provided to the juvenile court or children's division office requesting such information. Any child placed in emergency placement in a private home shall be removed immediately if any person residing in the home fails to provide fingerprints after being requested to do so, unless the person refusing to provide fingerprints ceases to reside in the private home.

3. If the placement of a child is denied as a result of a name-based criminal history check and the denial is contested, all persons over the age of seventeen residing in the home and all children less than seventeen years of age residing in the home who the division has determined has been certified as an adult for the commission of a crime shall, within fifteen business days, submit to the juvenile court or the children's division two sets of fingerprints in the same manner described in subsection 2 of this section, accompanying fees, and written permission authorizing the juvenile court or the children's division to forward the fingerprints to the state criminal record repository for submission to the Federal Bureau of Investigation. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

4. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

5. For the purposes of this section, "emergency placement" refers to those limited instances when the juvenile court or children's division is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

210.487. BACKGROUND CHECKS FOR FOSTER FAMILIES, REQUIREMENTS — COSTS, PAID BY WHOM — RULEMAKING AUTHORITY. — 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for all persons over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain two sets of fingerprints for any person over the age of seventeen in the applicant's household and for any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person over the age of seventeen residing in the home and any child less than seventeen years of age residing in the applicant's home who the division has determined has been certified as an adult for the commission of a crime is listed on the child abuse and neglect registry.

For any children less than seventeen years of age residing in the applicant's home, the children's division shall inquire of the applicant whether any children less than seventeen years of age residing in the home have ever been certified as an adult and been convicted of, or pled guilty or nolo contendere to any crime.

2. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

3. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

4. The division may promulgate rules that are necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

210.518. DEPARTMENTS' DUTIES, CLASSIFICATION OF SERVICES TO CHILDREN — INTERAGENCY MEETINGS FOR COORDINATION OF SERVICES. — 1. The department of social services, the department of mental health, the department of elementary and secondary education and all subdivisions thereof shall develop and implement through interagency agreement a common system of classification for assessing the needs of a child and common terminology to describe the services to be provided to the child. The agreement must establish a standardized form and set of records to be kept for such children which shall include, if applicable to such child, any individualized education plan, diagnostic summary, school history, school records, medical history, court records, placement orders and any criminal history. The agreement shall be adopted and in effect on or before July 1, 1999.

2. To facilitate the coordination of services being provided to children, interagency meetings pursuant to subsection 1 of this section shall be held as frequently as appropriate to address and review any actions being taken by agency personnel involved in the provision of services to a child and to ensure the existence of a continuation of services to prevent and treat child abuse and neglect, evaluate data, policy, and practices, and assure the quality of services provided to children. The agencies shall document which staff members attended such meetings. If any services for the child are provided through contracted providers, such providers shall be included in the meetings described in this section.

210.535. FOSTER CARE AND ADOPTION ASSISTANCE UNDER FEDERAL SOCIAL SECURITY ACT, AMENDMENTS TO PLAN AND WAIVERS TO BE SUBMITTED. — The department of social services, shall:

(1) Submit amendments to state plans and seek available waivers from the federal Department of Health and Human Services to enhance federal reimbursement and federal administrative reimbursement for foster care and adoption assistance under Title IV-E of the Social Security Act and Title XIX of the Social Security Act; and

(2) Take the necessary steps to qualify the state for receipt of any federal block grant moneys which are or will be available for foster care and adoption assistance.

210.542. TRAINING AND STANDARDS FOR FOSTER PARENTS TO BE PROVIDED, WHEN — EVALUATION OF FOSTER PARENTS. — 1. The children's division shall provide certain standards and training that prospective foster care parents shall meet before becoming licensed.

2. The children's division shall provide performance-based criteria for the evaluation of licensed foster parents and may establish by rule the frequency of such evaluation.

210.565. RELATIVES OF CHILD SHALL BE GIVEN FOSTER HOME PLACEMENT, WHEN — RELATIVE, DEFINED — DEATH OR DISSOLUTION NOT TO AFFECT GRANDPARENTS' STATUS — SPECIFIC FINDINGS REQUIRED, WHEN — AGE OF RELATIVE NOT A FACTOR, WHEN — FEDERAL REQUIREMENTS TO BE FOLLOWED FOR PLACEMENT OF NATIVE AMERICAN CHILDREN. — 1. Whenever a child is placed in a foster home **and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child**, the children's division [of family services] shall give [preference and first consideration for] foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, grandparents who request consideration shall be given preference and first consideration for foster home placement.

2. As used in this section, the term "relative" means a person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. The preference for placement with relatives created by this section shall only apply where the court finds that placement with such relatives is [in] **not contrary to** the best interest of the child considering all circumstances. **If the court finds that it is contrary to the best interest of a child to be placed with relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.**

4. The age of the child's relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such relative.

5. For any native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

210.760. PLACEMENT IN FOSTER CARE — DIVISION'S DUTIES — REMOVAL OF CHILDREN FROM SCHOOL, RESTRICTIONS. — 1. In making placements in foster care the children's division [of family services] shall:

- (1) Arrange for a preplacement visit of the child, except in emergencies;
- (2) Provide full and accurate medical information and medical history to the persons providing foster care at the time of placement;
- (3) Give a minimum of five days advance notice to the persons providing foster care before removing a child from their care;
- (4) Provide the persons giving foster care with a written statement of the reasons for removing a child at the time of the notification required by this section; [and]
- (5) **Notify the child's parent or legal guardian that the child has been placed in foster care; and**

(6) Work with the [natural] parent **or legal guardian of the child**, through services available, in an effort to return the child to his **or her** natural home, if at all possible, or to place the child in a permanent adoptive setting, in accordance with the division's goals to reduce the number of children in long-term foster care and reestablish and encourage the family unit.

2. **Except as otherwise provided in section 210.125, no child shall be removed from school prior to the end of the official school day for that child for placement in foster care without a court order specifying that the child shall be removed from school.**

210.762. FAMILY SUPPORT TEAM MEETINGS TO BE HELD, WHEN — WHO MAY ATTEND — FORM TO BE USED. — 1. When a child is taken into custody by a juvenile officer or law enforcement official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with the division, the division may make a temporary placement and shall arrange for a family support team meeting prior to or within twenty-four hours following the protective custody hearing held under section 211.032, RSMo. After a child is in the division's custody and a temporary placement has been made, the division shall arrange an additional family support team meeting prior to taking any action relating to the placement of such child; except that, when the welfare of a child in the custody of the division requires an immediate or emergency change of placement, the division may make a temporary placement and shall schedule a family support team meeting within seventy-two hours.

2. The parents, the legal counsel for the parents, the foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any designee of the parent that has written authorization shall be notified and invited to participate in all family support team meetings. The family support team meeting may include such other persons whose attendance at the meeting may assist the team in making appropriate decisions in the best interests of the child. If the division finds that it is not in the best interest of a child to be placed with relatives, the division shall make specific findings in the division's report detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

3. The division shall use the form created in subsection 2 of section 210.147 to be signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all involved parties are aware of the team's decision regarding the custody and placement of the child. Any dissenting views must be recorded and attested to on such form.

4. The case manager shall be responsible for including such form with the case records of the child.

210.903. FAMILY CARE SAFETY REGISTRY AND ACCESS LINE ESTABLISHED, CONTENTS. — 1. To protect children, the elderly, and disabled individuals in this state, and to promote family and community safety by providing information concerning family caregivers, there is hereby established within the department of health and senior services a "Family Care Safety Registry and Access Line" which shall be available by January 1, 2001.

2. The family care safety registry shall contain information on child-care workers', elder-care workers', and personal-care workers' background and on child-care, elder-care and personal-care providers through:

(1) The patrol's criminal record check system pursuant to section 43.540, RSMo, including state and national information, to the extent possible;

(2) Probable cause findings of abuse and neglect **prior to the effective date of this section or findings of abuse and neglect by a preponderance of the evidence after the effective date of this section** pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, financial exploitation of the elderly or disabled, pursuant to section 570.145, RSMo;

(3) The division of aging's employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, the department of mental health's employee disqualification registry;

(5) Foster parent licensure denials, revocations and involuntary suspensions pursuant to section 210.496;

(6) Child-care facility license denials, revocations and suspensions pursuant to sections 210.201 to 210.259;

(7) Residential living facility and nursing home license denials, revocations, suspensions and probationary status pursuant to chapter 198, RSMo; and

(8) As of January 1, 2004, a check of the patrol's Missouri uniform law enforcement system (MULES) for sexual offender registrations pursuant to section 589.400, RSMo.

210.909. DEPARTMENT DUTIES — INFORMATION INCLUDED IN REGISTRY, WHEN — REGISTRANT NOTIFICATION. — 1. Upon submission of a completed registration form by a child-care worker, elder-care worker or personal-care attendant, the department shall:

(1) Determine if a probable cause finding of child abuse or neglect **prior to the effective date of this section or a finding of child abuse or neglect by a preponderance of the evidence after the effective date of this section** involving the applicant has been recorded pursuant to sections 210.109 to 210.183 and, as of January 1, 2003, if there is a probable cause finding of financial exploitation of the elderly or disabled pursuant to section 570.145, RSMo;

(2) Determine if the applicant has been refused licensure or has experienced involuntary licensure suspension or revocation pursuant to section 210.496;

(3) Determine if the applicant has been placed on the employee disqualification list pursuant to section 660.315, RSMo;

(4) As of January 1, 2003, determine if the applicant is listed on the department of mental health's employee disqualification registry;

(5) Determine through a request to the patrol pursuant to section 43.540, RSMo, whether the applicant has any criminal history record for a felony or misdemeanor or any offense for which the person has registered pursuant to sections 589.400 to 589.425, RSMo; and

(6) If the background check involves a provider, determine if a facility has been refused licensure or has experienced licensure suspension, revocation or probationary status pursuant to sections 210.201 to 210.259 or chapter 198, RSMo; and

(7) As of January 1, 2004, determine through a request to the patrol if the applicant is a registered sexual offender pursuant to section 589.400, RSMo, listed in the Missouri uniform law enforcement system (MULES).

2. Upon completion of the background check described in subsection 1 of this section, the department shall include information in the registry for each registrant as to whether any convictions, employee disqualification listings, registry listings, probable cause findings, pleas of guilty or nolo contendere, or license denial, revocation or suspension have been documented through the records checks authorized pursuant to the provisions of sections 210.900 to 210.936.

3. The department shall notify such registrant in writing of the results of the determination recorded on the registry pursuant to this section.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOMESCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile

court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) **Upon motion of any child or person seventeen years of age or his or her parent, the court having jurisdiction shall grant one change of judge pursuant to Missouri Supreme Court Rules;**

(6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

4. **When an investigation by a juvenile officer pursuant to this section reveals that the only basis for action involves an alleged violation of section 167.031, RSMo, involving a child who alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child to verify that the child is being home schooled and not in violation of section 167.031, RSMo, before making a report of such a violation. Any report of a violation of section 167.031, RSMo, made by a juvenile officer regarding a child who is being home schooled shall be made to the prosecuting attorney of the county where the child legally resides.**

211.032. CHILD ABUSE AND NEGLECT HEARINGS, WHEN HELD, PROCEDURE — SUPREME COURT RULES TO BE PROMULGATED — TRANSFER OF SCHOOL RECORDS, WHEN. — 1. Except as otherwise provided in a circuit participating in a pilot project established by the Missouri supreme court, when a child or person seventeen years of age, alleged to be in need of care and treatment pursuant to subdivision (1) of subsection 1 of section 211.031, is taken into custody, the juvenile or family court shall notify the parties of the right to have a protective custody hearing. Such notification shall be in writing.

2. Upon request from any party, the court shall hold a protective custody hearing. Such hearing shall be held within three days of the request for a hearing, excluding Saturdays, Sundays and legal holidays. **For circuits participating in a pilot project established by the Missouri supreme court, the parties shall be notified at the status conference of their right to request a protective custody hearing.**

3. No later than February 1, 2005, the Missouri supreme court shall require a mandatory court proceeding to be held within three days, excluding Saturdays, Sundays, and legal holidays, in all cases under subdivision (1) of subsection 1 of section 211.031. The Missouri supreme court shall promulgate rules for the implementation of such mandatory court proceedings and may consider recommendations from any pilot projects established by the Missouri supreme court regarding such proceedings. Nothing in this subsection shall prevent the Missouri supreme court from expanding pilot projects prior to the implementation of this subsection.

[3.] 4. The court shall hold an adjudication hearing no later than sixty days after the child has been taken into custody. The court shall notify the parties in writing of the specific date, time, and place of such hearing. If at such hearing the court determines that sufficient cause exists for the child to remain in the custody of the state, the court shall conduct a dispositional hearing no later than ninety days after the child has been taken into custody and shall conduct review hearings regarding the reunification efforts made by the division every ninety to one hundred twenty days for the first year the child is in the custody of the division. After the first year, review hearings shall be held as necessary,

but in no event less than once every six months for as long as the child is in the custody of the division.

5. At [the protective custody hearing] all hearings held pursuant to this section the court may receive testimony and other evidence relevant to the necessity of detaining the child out of the custody of the parents, guardian or custodian.

6. By January 1, 2005, the supreme court shall develop rules regarding the effect of untimely hearings.

7. If the placement of any child in the custody of the children's division will result in the child attending a school other than the school the child was attending when taken into custody:

(1) The child's records from such school shall automatically be forwarded to the school that the child is transferring to upon notification within two business days by the division; or

(2) Upon request of the foster family, the guardian ad litem, or the volunteer advocate and whenever possible, the child shall be permitted to continue to attend the same school that the child was enrolled in and attending at the time the child was taken into custody by the division. The division, in consultation with the department of elementary and secondary education, shall establish the necessary procedures to implement the provisions of this subsection.

211.038. CHILDREN NOT TO BE REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — No child under the jurisdiction of the juvenile court shall be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this section shall preclude the juvenile court from exercising its discretion regarding the placement of child in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty or nolo contendere to any offense excepted or excluded in this section.

211.059. RIGHTS OF CHILD WHEN TAKEN INTO CUSTODY (MIRANDA WARNING) — RIGHT OF CHILD IN CUSTODY IN ABUSE AND NEGLECT CASES. — 1. When a child is taken into custody by a juvenile officer or law enforcement official, with or without a warrant for an offense in violation of the juvenile code or the general law which would place the child under the jurisdiction of the juvenile court pursuant to subdivision (2) or (3) of subsection 1 of section 211.031, the child shall be advised prior to questioning:

- (1) That he has the right to remain silent; and
- (2) That any statement he does make to anyone can be and may be used against him; and
- (3) That he has a right to have a parent, guardian or custodian present during questioning; and
- (4) That he has a right to consult with an attorney and that one will be appointed and paid for him if he cannot afford one.

2. If the child indicates in any manner and at any stage of questioning pursuant to this section that he does not wish to be questioned further, the officer shall cease questioning.

3. When a child is taken into custody by a juvenile officer or law enforcement official which places the child under the jurisdiction of the juvenile court under subdivision (1)

of subsection 1 of section 211.031, including any interactions with the child by the children's division, the following shall apply:

(1) If the child indicates in any manner at any stage during questioning involving the alleged abuse and neglect that the child does not wish to be questioned any further on the allegations, or that the child wishes to have his or her parent, legal guardian, or custodian if such parent, guardian, or custodian is not the alleged perpetrator, or his or her attorney present during questioning as to the alleged abuse, the questioning of the child shall cease on the alleged abuse and neglect until such a time that the child does not object to talking about the alleged abuse and neglect unless the interviewer has reason to believe that the parent, legal guardian, or custodian is acting to protect the alleged perpetrator. Nothing in this subdivision shall be construed to prevent the asking of any questions necessary for the care, treatment, or placement of a child; and

(2) Notwithstanding any prohibition of hearsay evidence, all video or audio recordings of any meetings, interviews, or interrogations of a child shall be presumed admissible as evidence in any court or administrative proceeding involving the child if the following conditions are met:

(a) Such meetings, interviews, or interrogations of the child are conducted by the state prior to or after the child is taken into the custody of the state; and

(b) Such video or audio recordings were made prior to the adjudication hearing in the case. Nothing in this paragraph shall be construed to prohibit the videotaping or audiotaping of any such meetings, interviews, or interrogations of a child after the adjudication hearing; and

(3) Only upon a showing by clear and convincing evidence that such a video or audio recording lacks sufficient indicia of reliability shall such recording be inadmissible.

The provisions of this subsection shall not apply to statements admissible under section 491.075 or 492.304, RSMo, in criminal proceedings.

211.171. HEARING PROCEDURE — NOTIFICATION OF CURRENT FOSTER PARENTS, PREADOPTIVE PARENTS AND RELATIVES, WHEN — PUBLIC MAY BE EXCLUDED, WHEN — VICTIM IMPACT STATEMENT PERMITTED, WHEN. — 1. The procedure to be followed at the hearing shall be determined by the juvenile court judge and may be as formal or informal as he or she considers desirable, consistent with constitutional and statutory requirements. The judge may take testimony and inquire into the habits, surroundings, conditions and tendencies of the child and the family to enable the court to render such order or judgment as will best promote the welfare of the child and carry out the objectives of this chapter.

2. The hearing may, in the discretion of the court, proceed in the absence of the child and may be adjourned from time to time.

3. The current foster parents of a child, or any preadoptive parent or relative currently providing care for the child, shall be provided with notice of, and an opportunity to be heard in, any [permanency or other review] hearing to be held with respect to the child. This subsection shall not be construed to require that any such foster parent, preadoptive parent or relative providing care for a child be made a party to the case solely on the basis of such notice and opportunity to be heard.

4. All cases of children shall be heard separately from the trial of cases against adults.

5. Stenographic notes or an authorized recording of the hearing shall be required if the court so orders or, if requested by any party interested in the proceeding.

6. The general public shall be excluded and only such persons admitted as have a direct interest in the case or in the work of the court except in cases where the child is accused of conduct which, if committed by an adult, would be considered a class A or B felony; or for conduct which would be considered a class C felony, if the child has previously been formally adjudicated for the commission of two or more unrelated acts which would have been class A, B or C felonies, if committed by an adult.

7. The practice and procedure customary in proceedings in equity shall govern all proceedings in the juvenile court; **except that, the court shall not grant a continuance in such proceedings absent compelling extenuating circumstances, and in such cases, the court shall make written findings on the record detailing the specific reasons for granting a continuance.**

8. The court shall allow the victim of any offense to submit a written statement to the court. The court shall allow the victim to appear before the court personally or by counsel for the purpose of making a statement, unless the court finds that the presence of the victim would not serve justice. The statement shall relate solely to the facts of the case and any personal injuries or financial loss incurred by the victim. A member of the immediate family of the victim may appear personally or by counsel to make a statement if the victim has died or is otherwise unable to appear as a result of the offense committed by the child.

211.181. ORDER FOR DISPOSITION OR TREATMENT OF CHILD — SUSPENSION OF ORDER AND PROBATION GRANTED, WHEN — COMMUNITY ORGANIZATIONS, IMMUNITY FROM LIABILITY, WHEN — LENGTH OF COMMITMENT MAY BE SET FORTH — ASSESSMENTS, DEPOSITS, USE. — 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home;

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services, subject to appropriation, and shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child or person seventeen years of age;

(6) The department of social services, in conjunction with the department of mental health, shall apply to the United States Department of Health and Human Services for such federal waivers as required to provide services for such children, including the acquisition of community-based services waivers.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court. Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his **or her** own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

(4) Place the child in a family home;

(5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;

(7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;

(8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision, shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;

(9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may

discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

211.319. JUVENILE COURT RECORDS AND PROCEEDINGS, ABUSE AND NEGLECT CASES, PROCEDURE. — 1. On or before July 1, 2005, all juvenile court proceedings conducted pursuant to subdivision (1) of subsection 1 of section 211.031 and for termination of parental rights cases pursuant to sections 211.442 to 211.487 initiated by a juvenile officer or the division shall be open to the public. The court, on its own motion, may exclude for good cause shown any person or persons from the proceedings to protect the welfare and best interests of the child and for exceptional circumstances. Any party to a juvenile court proceeding referred to in this subsection, except the state, may file a motion requesting that the general public be excluded from the proceeding or any portion of the proceeding. Upon the filing of such motion, the court shall hear arguments by the parties, but no evidence, and shall make a determination whether closure is in the best interest of the parties or whether it is in the public interest to deny such motion. The court shall make a finding on the record when a motion to close a hearing pursuant to this section is made and heard by the court.

2. Notwithstanding the provisions of subsection 1 of this section, the general public shall be excluded from all juvenile court proceedings referred to in subsection 1 of this section during the testimony of any child or victim and only such persons who have a direct interest in the case or in the work of the court will be admitted to the proceedings.

3. For juvenile court proceedings described in subsection 1 of this section, pleadings and orders of the juvenile court other than confidential files and those specifically ordered closed by the juvenile court judge shall be open to the general public. For purposes of this section, "confidential file" means all other records and reports considered closed or confidential by law, including but not limited to medical reports, psychological or psychiatric evaluations, investigation reports of the children's division, social histories, home studies, and police reports and law enforcement records. Only persons who are found by the court to have a legitimate interest shall be allowed access to confidential or closed files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of any child involved.

4. For records made available to the public pursuant to this section:

(1) The identity of any child involved except the perpetrator shall not be disclosed and all references in such records to the identity of any child involved except the perpetrator shall be redacted prior to disclosure to the public; and

(2) All information that may identify or lead to the disclosure of the identity of a reporter of child abuse under sections 210.109 to 210.183, RSMo, and section 352.400, RSMo, shall not be disclosed to the public.

5. The provisions of this section shall apply to juvenile court proceedings and records specified in this section in which the initial pleadings are filed on or after July 1, 2005.

211.321. JUVENILE COURT RECORDS, CONFIDENTIALITY, EXCEPTIONS — RECORDS OF PEACE OFFICERS, EXCEPTIONS, RELEASE OF CERTAIN INFORMATION TO VICTIM. — 1. Records of juvenile court proceedings as well as all information obtained and social records prepared in the discharge of official duty for the court shall not be open to inspection or their contents disclosed, except by order of the court to persons having a legitimate interest therein, unless a petition or motion to modify is sustained which charges the child with an offense which,

if committed by an adult, would be a class A felony under the criminal code of Missouri, or capital murder, first degree murder, or second degree murder or except as provided in subsection 2 of this section. In addition, whenever a report is required under section 557.026, RSMo, there shall also be included a complete list of certain violations of the juvenile code for which the defendant had been adjudicated a delinquent while a juvenile. This list shall be made available to the probation officer and shall be included in the presentence report. The violations to be included in the report are limited to the following: rape, sodomy, murder, kidnapping, robbery, arson, burglary or any acts involving the rendering or threat of serious bodily harm. The supreme court may promulgate rules to be followed by the juvenile courts in separating the records.

2. In all proceedings under [subdivisions (1) and] **subdivision** (2) of subsection 1 of section 211.031, the records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and shall be open to inspection only by order of the judge of the juvenile court or as otherwise provided by statute. In all proceedings under subdivision (3) of subsection 1 of section 211.031 the records of the juvenile court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and may be open to inspection without court order only as follows:

(1) The juvenile officer is authorized at any time:

(a) To provide information to or discuss matters concerning the child, the violation of law or the case with the victim, witnesses, officials at the child's school, law enforcement officials, prosecuting attorneys, any person or agency having or proposed to have legal or actual care, custody or control of the child, or any person or agency providing or proposed to provide treatment of the child. Information received pursuant to this paragraph shall not be released to the general public, but shall be released only to the persons or agencies listed in this paragraph;

(b) To make public information concerning the offense, the substance of the petition, the status of proceedings in the juvenile court and any other information which does not specifically identify the child or the child's family;

(2) After a child has been adjudicated delinquent pursuant to subdivision (3) of subsection 1 of section 211.031, for an offense which would be a felony if committed by an adult, the records of the dispositional hearing and proceedings related thereto shall be open to the public to the same extent that records of criminal proceedings are open to the public. However, the social summaries, investigations or updates in the nature of presentence investigations, and status reports submitted to the court by any treating agency or individual after the dispositional order is entered shall be kept confidential and shall be opened to inspection only by order of the judge of the juvenile court;

(3) As otherwise provided by statute;

(4) In all other instances, only by order of the judge of the juvenile court.

3. Peace officers' records, if any are kept, of children shall be kept separate from the records of persons seventeen years of age or over and shall not be open to inspection or their contents disclosed, except by order of the court. This subsection does not apply to children who are transferred to courts of general jurisdiction as provided by section 211.071 or to juveniles convicted under the provisions of sections 578.421 to 578.437, RSMo. This subsection does not apply to the inspection or disclosure of the contents of the records of peace officers for the purpose of pursuing a civil forfeiture action pursuant to the provisions of section 195.140, RSMo.

4. Nothing in this section shall be construed to prevent the release of information and data to persons or organizations authorized by law to compile statistics relating to juveniles. The court shall adopt procedures to protect the confidentiality of children's names and identities.

5. The court may, either on its own motion or upon application by the child or his representative, or upon application by the juvenile officer, enter an order to destroy all social histories, records, and information, other than the official court file, and may enter an order to

seal the official court file, as well as all peace officers' records, at any time after the child has reached his seventeenth birthday if the court finds that it is in the best interest of the child that such action or any part thereof be taken, unless the jurisdiction of the court is continued beyond the child's seventeenth birthday, in which event such action or any part thereof may be taken by the court at any time after the closing of the child's case.

6. Nothing in this section shall be construed to prevent the release of general information regarding the informal adjustment or formal adjudication of the disposition of a child's case to a victim or a member of the immediate family of a victim of any offense committed by the child. Such general information shall not be specific as to location and duration of treatment or detention or as to any terms of supervision.

7. Records of juvenile court proceedings as well as all information obtained and social records prepared in the discharge of official duty for the court shall be disclosed to the child fatality review panel reviewing the child's death pursuant to section 210.192, RSMo, unless the juvenile court on its own motion, or upon application by the juvenile officer, enters an order to seal the records of the victim child.

302.272. SCHOOL BUS PERMIT, QUALIFICATIONS — PERMIT RENEWAL, WHEN — FEE — TEMPORARY PERMITS — GROUNDS FOR REFUSAL TO ISSUE OR RENEW PERMIT — CRIMINAL RECORD CHECKS OF APPLICANTS. — 1. No person shall operate any school bus owned by or under contract with a public school or the state board of education unless such driver has qualified for a school bus permit under this section and complied with the pertinent rules and regulations of the department of revenue. A school bus permit shall be issued to any applicant who meets the following qualifications:

(1) The applicant has a valid state license issued under this chapter or has a license valid in any other state;

(2) The applicant is at least twenty-one years of age;

(3) The applicant has passed a medical examination, including vision and hearing tests, as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the applicant shall pass the medical examination annually to maintain or renew the permit; and

(4) The applicant has successfully passed an examination for the operation of a school bus as prescribed by the director of revenue. The examination shall include, but need not be limited to, a written skills examination of applicable laws, rules and procedures, and a driving test in the type of vehicle to be operated. The test shall be completed in the appropriate class of vehicle to be driven. For purposes of this section classes of school buses shall comply with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

2. Except as otherwise provided in this section, a school bus permit shall be renewed every three years and shall require the applicant to provide a medical examination as specified in subdivision (3) of subsection 1 of this section and to successfully pass a written skills examination as prescribed by the director of revenue in consultation with the department of elementary and secondary education. If the applicant is at least seventy years of age, the school bus permit shall be renewed annually, and the applicant shall successfully pass the examination prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed permit. The director may waive the written skills examination on renewal of a school bus permit upon verification of the applicant's successful completion within the preceding twelve months of a training program which has been approved by the director in consultation with the department of elementary and secondary education and which is at least eight hours in duration with special instruction in school bus driving.

3. The fee for a new or renewed school bus permit shall be three dollars.

4. Upon the applicant's completion of the requirements of subsections 1, 2, and 3 of this section, the director of revenue shall issue a temporary school bus permit to the applicant until such time as a permanent school bus permit shall be issued following the record clearance as provided in subsection 6 of this section.

5. The director of revenue, to the best of the director's knowledge, shall not issue or renew a school bus permit to any applicant:

(1) Whose driving record shows that such applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified or whose driving record shows a history of moving vehicle violations;

(2) Who has pled guilty to or been found guilty of any felony or misdemeanor for violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving **child abuse** or the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge;

(3) Who has pled guilty to or been found guilty of any felony involving robbery, arson, burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any federal, state, municipal or other court of similar jurisdiction within the preceding ten years of which the director has knowledge;

(4) Who is listed on the child abuse and neglect registry.

6. The [department of social services or the] Missouri highway patrol[, whichever has access to applicable records,] shall provide a record of clearance or denial of clearance for any applicant for a school bus permit for the [convictions] **offenses** specified in subdivisions (2) and (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of clearance or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of Investigation any information which might aid the Missouri highway patrol in providing such record of clearance or denial of clearance. The [department of social services or the] Missouri highway patrol shall provide the record of clearance or denial of clearance within thirty days of the date requested, relying on information available at that time, except that the [department of social services or the] Missouri highway patrol shall provide any information subsequently discovered to the department of revenue.

7. Beginning January 1, 2005, the director shall request that the department of social services determine whether the applicant is listed on the child abuse and neglect registry and shall require the applicant to submit two sets of fingerprints. One set of fingerprints shall be used by the highway patrol in order to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

8. The applicant shall pay the fee for the state criminal history information pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus permit pursuant to this section. The director shall distribute the fees collected for the state and federal criminal histories to the highway patrol.

9. If, as a result of the criminal history background check and the check of the child abuse and neglect registry required by this section, it is determined that an applicant has pled guilty or nolo contendere to, or been found guilty of an offense listed in subdivisions (2) and (3) of subsection 5 of this section, or a similar offense if committed in any other state, the United States, or any other country, regardless of imposition of sentence, or the applicant's name appears on the child abuse and neglect registry the director of revenue shall not issue or renew a school bus permit to such applicant.

10. The director may adopt any rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become

effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section, shall be invalid and void.

431.056. MINOR'S ABILITY TO CONTRACT FOR CERTAIN PURPOSES — CONDITIONS. —

1. A minor shall be qualified and competent to contract for housing, employment, purchase of an automobile, receipt of a student loan, admission to high school or postsecondary school, obtaining medical care, establishing a bank account and admission to a shelter for victims of domestic violence, as defined in section 455.200, RSMo, or a homeless shelter if:

- (1) The minor is sixteen or seventeen years of age; and
- (2) The minor is homeless, as defined in [subdivisions (1), (2) and (3) of] subsection 1 of section 167.020, RSMo, or a victim of domestic violence, as defined in section 455.200, RSMo, unless the child is under the supervision of the **children's** division [of family services] or the jurisdiction of the juvenile court; and
- (3) The minor is self-supporting, **such that the minor is without the physical or financial support of a parent or legal guardian;** and
- (4) The minor's [parents have] **parent or legal guardian has** consented to the minor living independent of the parents' **or guardians'** control. **Consent may be expressed or implied, such that:**

- (1) **Expressed consent is any verbal or written statement made by the parents or guardian of the minor displaying approval or agreement that the minor may live independently of the parent's or guardian's control;**

- (2) **Implied consent is any action made by the parent or guardian of the minor that indicates the parent or guardian is unwilling or unable to adequately care for the minor. Such actions may include, but are not limited to:**

- (a) **Barring the minor from the home or otherwise indicating that the minor is not welcome to stay;**
- (b) **Refusing to provide any or all financial support for the minor; or**
- (c) **Abusing or neglecting the minor, as defined in section 210.110, RSMo.**

452.375. CUSTODY — DEFINITIONS — FACTORS DETERMINING CUSTODY — PROHIBITED, WHEN — PUBLIC POLICY OF STATE — CUSTODY OPTIONS PLAN, WHEN REQUIRED — FINDINGS REQUIRED, WHEN — EXCHANGE OF INFORMATION AND RIGHT TO CERTAIN RECORDS, FAILURE TO DISCLOSE — FEES, COSTS ASSESSED, WHEN — JOINT CUSTODY NOT TO PRECLUDE CHILD SUPPORT — SUPPORT, HOW DETERMINED — DOMESTIC VIOLENCE OR ABUSE, SPECIFIC FINDINGS. — 1. As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Custody", means joint legal custody, sole legal custody, joint physical custody or sole physical custody or any combination thereof;

- (2) "Joint legal custody" means that the parents share the decision-making rights, responsibilities, and authority relating to the health, education and welfare of the child, and, unless allocated, apportioned, or decreed, the parents shall confer with one another in the exercise of decision-making rights, responsibilities, and authority;

- (3) "Joint physical custody" means an order awarding each of the parents significant, but not necessarily equal, periods of time during which a child resides with or is under the care and supervision of each of the parents. Joint physical custody shall be shared by the parents in such a way as to assure the child of frequent, continuing and meaningful contact with both parents;

- (4) "Third-party custody" means a third party designated as a legal and physical custodian pursuant to subdivision (5) of subsection 5 of this section.

2. The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:

(1) The wishes of the child's parents as to custody and the proposed parenting plan submitted by both parties;

(2) The needs of the child for a frequent, continuing and meaningful relationship with both parents and the ability and willingness of parents to actively perform their functions as mother and father for the needs of the child;

(3) The interaction and interrelationship of the child with parents, siblings, and any other person who may significantly affect the child's best interests;

(4) Which parent is more likely to allow the child frequent, continuing and meaningful contact with the other parent;

(5) The child's adjustment to the child's home, school, and community;

(6) The mental and physical health of all individuals involved, including any history of abuse of any individuals involved. If the court finds that a pattern of domestic violence has occurred, and, if the court also finds that awarding custody to the abusive parent is in the best interest of the child, then the court shall enter written findings of fact and conclusions of law. Custody and visitation rights shall be ordered in a manner that best protects the child **and any other child or children for whom the parent has custodial or visitation rights**, and the parent or other family or household member who is the victim of domestic violence from any further harm;

(7) The intention of either parent to relocate the principal residence of the child; and

(8) The wishes of a child as to the child's custodian.

The fact that a parent sends his or her child or children to a home school, as defined in section 167.031, RSMo, shall not be the sole factor that a court considers in determining custody of such child or children.

3. **In any court proceedings relating to custody of a child**, the court shall not award custody **or unsupervised visitation** of a child to a parent if such parent **or any person residing with such parent** has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, **except for section 566.034, RSMo**, when [the] a child was the victim, or a violation of [chapter 568, RSMo, except for section 568.040] **section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo**, when [the] a child was the victim, **or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the awarding of custody or visitation for child if the parent or any person residing in the home has been found guilty of, or pled guilty or nolo contendere to any offense excepted or excluded in this subsection.**

4. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child, except for cases where the court specifically finds that such contact is not in the best interest of the child, and that it is the public policy of this state to encourage parents to participate in decisions affecting the health, education and welfare of their children, and to resolve disputes involving their children amicably through alternative dispute resolution. In order to effectuate these policies, the court shall determine the custody arrangement which will best assure both parents participate in such decisions and have frequent, continuing and meaningful contact with their children so long as it is in the best interests of the child.

5. Prior to awarding the appropriate custody arrangement in the best interest of the child, the court shall consider each of the following as follows:

(1) Joint physical and joint legal custody to both parents, which shall not be denied solely for the reason that one parent opposes a joint physical and joint legal custody award. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(2) Joint physical custody with one party granted sole legal custody. The residence of one of the parents shall be designated as the address of the child for mailing and educational purposes;

(3) Joint legal custody with one party granted sole physical custody;

(4) Sole custody to either parent; or

(5) Third-party custody or visitation:

(a) When the court finds that each parent is unfit, unsuitable, or unable to be a custodian, or the welfare of the child requires, and it is in the best interests of the child, then custody, temporary custody or visitation may be awarded to any other person or persons deemed by the court to be suitable and able to provide an adequate and stable environment for the child. Before the court awards custody, temporary custody or visitation to a third person under this subdivision, the court shall make that person a party to the action;

(b) Under the provisions of this subsection, any person may petition the court to intervene as a party in interest at any time as provided by supreme court rule.

6. If the parties have not agreed to a custodial arrangement, or the court determines such arrangement is not in the best interest of the child, the court shall include a written finding in the judgment or order based on the public policy in subsection 4 of this section and each of the factors listed in subdivisions (1) to (8) of subsection 2 of this section detailing the specific relevant factors that made a particular arrangement in the best interest of the child. If a proposed custodial arrangement is rejected by the court, the court shall include a written finding in the judgment or order detailing the specific relevant factors resulting in the rejection of such arrangement.

7. Upon a finding by the court that either parent has refused to exchange information with the other parent, which shall include but not be limited to information concerning the health, education and welfare of the child, the court shall order the parent to comply immediately and to pay the prevailing party a sum equal to the prevailing party's cost associated with obtaining the requested information, which shall include but not be limited to reasonable attorney's fees and court costs.

8. As between the parents of a child, no preference may be given to either parent in the awarding of custody because of that parent's age, sex, or financial status, nor because of the age or sex of the child.

9. Any judgment providing for custody shall include a specific written parenting plan setting forth the terms of such parenting plan arrangements specified in subsection 7 of section 452.310. Such plan may be a parenting plan submitted by the parties pursuant to section 452.310 or, in the absence thereof, a plan determined by the court, but in all cases, the custody plan approved and ordered by the court shall be in the court's discretion and shall be in the best interest of the child.

10. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, both parents shall have access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records. If the parent without custody has been granted restricted or supervised visitation because the court has found that the parent with custody or [the] **any** child has been the victim of domestic violence, as defined in section 455.200, RSMo, by the parent without custody, the court may order that the reports and records made available pursuant to this subsection not include the address of the parent with custody or the child. Unless a parent has been denied custody rights pursuant to this section or visitation rights under section 452.400, any judgment of dissolution or other applicable court order shall specifically allow both parents access to such records and reports.

11. Except as otherwise precluded by state or federal law, if any individual, professional, public or private institution or organization denies access or fails to provide or disclose any and all records and information, including, but not limited to, past and present dental, medical and school records pertaining to a minor child, to either parent upon the written request of such parent, the court shall, upon its finding that the individual, professional, public or private institution or organization denied such request without good cause, order that party to comply immediately with such request and to pay to the prevailing party all costs incurred, including, but not limited to, attorney's fees and court costs associated with obtaining the requested information.

12. An award of joint custody does not preclude an award of child support pursuant to section 452.340 and applicable supreme court rules. The court shall consider the factors contained in section 452.340 and applicable supreme court rules in determining an amount reasonable or necessary for the support of the child.

13. If the court finds that domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, has occurred, the court shall make specific findings of fact to show that the custody or visitation arrangement ordered by the court best protects the child and the parent or other family or household member who is the victim of domestic violence or abuse, as defined in sections 455.010 and 455.501, RSMo, **and any other children for whom such parent has custodial or visitation rights** from any further harm.

452.400. VISITATION RIGHTS, AWARDED WHEN — HISTORY OF DOMESTIC VIOLENCE, CONSIDERATION OF — PROHIBITED, WHEN — MODIFICATION OF, WHEN — SUPERVISED VISITATION DEFINED — NONCOMPLIANCE WITH ORDER, EFFECT OF — FAMILY ACCESS MOTIONS, PROCEDURE, PENALTY FOR VIOLATION — ATTORNEY FEES AND COSTS ASSESSED, WHEN. — 1. A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical health or impair his or her emotional development. The court shall enter an order specifically detailing the visitation rights of the parent without physical custody rights **to the child and any other children for whom such parent has custodial or visitation rights**. In determining the granting of visitation rights, the court shall consider evidence of domestic violence. If the court finds that domestic violence has occurred, the court may find that granting visitation to the abusive party is in the best interests of the child. The court shall not grant visitation to the parent not granted custody if such parent **or any person residing with such parent** has been found guilty of or pled guilty to a felony violation of chapter 566, RSMo, **except for section 566.034, RSMo**, when [the] a child was the victim, or a violation of [chapter 568, RSMo, except for section 568.040] **section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo**, when [the] a child was the victim, or an offense committed in another state[,] when [the] a child is the victim, that would be a felony violation of chapter 566, RSMo, **except for section 566.034, RSMo**, or chapter [568, RSMo, except for section 568.040] **section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo**, if committed in Missouri; **provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the awarding of custody or visitation for child if the parent or any person residing in the home has been found guilty of, or pled guilty or nolo contendere to any offense excepted or excluded in this subsection.** The court shall consider the parent's history of inflicting, or tendency to inflict, physical harm, bodily injury, assault, or the fear of physical harm, bodily injury, or assault on other persons and shall grant visitation in a manner that best protects the child and the parent or other family or household member who is the victim of domestic violence, **and any other children for whom the parent has custodial or visitation rights** from any further harm. The court, if requested by a party, shall make specific findings of fact to show that the visitation arrangements made by the court best protect the child or the parent or

other family or household member who is the victim of domestic violence, **or any other child for whom the parent has custodial or visitation rights** from any further harm.

2. The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child, but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical health or impair his or her emotional development. **In any proceeding modifying visitation rights, the court shall not grant unsupervised visitation to a parent if the parent or any person residing with such parent has been found guilty of or pled guilty to a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of sections 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, and 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this subsection shall preclude the court from exercising its discretion regarding the placement of child in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty or nolo contendere to any offense excepted or excluded in this subsection.** When a court restricts a parent's visitation rights or when a court orders supervised visitation because of allegations of abuse or domestic violence, a showing of proof of treatment and rehabilitation shall be made to the court before unsupervised visitation may be ordered. "Supervised visitation", as used in this section, is visitation which takes place in the presence of a responsible adult appointed by the court for the protection of the child.

3. The court shall mandate compliance with its order by all parties to the action, including parents, children and third parties. In the event of noncompliance, the aggrieved person may file a verified motion for contempt. If custody, visitation or third-party custody is denied or interfered with by a parent or third party without good cause, the aggrieved person may file a family access motion with the court stating the specific facts which constitute a violation of the judgment of dissolution or legal separation. The state courts administrator shall develop a simple form for pro se motions to the aggrieved person, which shall be provided to the person by the circuit clerk. Clerks, under the supervision of a circuit clerk, shall explain to aggrieved parties the procedures for filing the form. Notice of the fact that clerks will provide such assistance shall be conspicuously posted in the clerk's offices. The location of the office where the family access motion may be filed shall be conspicuously posted in the court building. The performance of duties described in this section shall not constitute the practice of law as defined in section 484.010, RSMo. Such form for pro se motions shall not require the assistance of legal counsel to prepare and file. The cost of filing the motion shall be the standard court costs otherwise due for instituting a civil action in the circuit court.

4. Within five court days after the filing of the family access motion pursuant to subsection 3 of this section, the clerk of the court shall issue a summons pursuant to applicable state law, and applicable local or supreme court rules. A copy of the motion shall be personally served upon the respondent by personal process server as provided by law or by any sheriff. Such service shall be served at the earliest time and shall take priority over service in other civil actions, except those of an emergency nature or those filed pursuant to chapter 455, RSMo. The motion shall contain the following statement in boldface type:

"PURSUANT TO SECTION 452.400, RSMO, YOU ARE REQUIRED TO RESPOND TO THE CIRCUIT CLERK WITHIN TEN DAYS OF THE DATE OF SERVICE. FAILURE TO RESPOND TO THE CIRCUIT CLERK MAY RESULT IN THE FOLLOWING:

(1) AN ORDER FOR A COMPENSATORY PERIOD OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY AT A TIME CONVENIENT FOR THE AGGRIEVED PARTY NOT LESS THAN THE PERIOD OF TIME DENIED;

(2) PARTICIPATION BY THE VIOLATOR IN COUNSELING TO EDUCATE THE VIOLATOR ABOUT THE IMPORTANCE OF PROVIDING THE CHILD WITH A CONTINUING AND MEANINGFUL RELATIONSHIP WITH BOTH PARENTS;

(3) ASSESSMENT OF A FINE OF UP TO FIVE HUNDRED DOLLARS AGAINST THE VIOLATOR;

(4) REQUIRING THE VIOLATOR TO POST BOND OR SECURITY TO ENSURE FUTURE COMPLIANCE WITH THE COURT'S ORDERS;

(5) ORDERING THE VIOLATOR TO PAY THE COST OF COUNSELING TO REESTABLISH THE PARENT-CHILD RELATIONSHIP BETWEEN THE AGGRIEVED PARTY AND THE CHILD; AND

(6) A JUDGMENT IN AN AMOUNT NOT LESS THAN THE REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS ACTUALLY INCURRED BY THE AGGRIEVED PARTY AS A RESULT OF THE DENIAL OF CUSTODY, VISITATION OR THIRD-PARTY CUSTODY."

5. If an alternative dispute resolution program is available pursuant to section 452.372, the clerk shall also provide information to all parties on the availability of any such services, and within fourteen days of the date of service, the court may schedule alternative dispute resolution.

6. Upon a finding by the court pursuant to a motion for a family access order or a motion for contempt that its order for custody, visitation or third-party custody has not been complied with, without good cause, the court shall order a remedy, which may include, but not be limited to:

(1) A compensatory period of visitation, custody or third-party custody at a time convenient for the aggrieved party not less than the period of time denied;

(2) Participation by the violator in counseling to educate the violator about the importance of providing the child with a continuing and meaningful relationship with both parents;

(3) Assessment of a fine of up to five hundred dollars against the violator payable to the aggrieved party;

(4) Requiring the violator to post bond or security to ensure future compliance with the court's access orders; and

(5) Ordering the violator to pay the cost of counseling to reestablish the parent-child relationship between the aggrieved party and the child.

7. The reasonable expenses incurred as a result of denial or interference with custody or visitation, including attorney's fees and costs of a proceeding to enforce visitation rights, custody or third-party custody, shall be assessed, if requested and for good cause, against the parent or party who unreasonably denies or interferes with visitation, custody or third-party custody. In addition, the court may utilize any and all powers relating to contempt conferred on it by law or rule of the Missouri supreme court.

8. Final disposition of a motion for a family access order filed pursuant to this section shall take place not more than sixty days after the service of such motion, unless waived by the parties or determined to be in the best interest of the child. Final disposition shall not include appellate review.

9. Motions filed pursuant to this section shall not be deemed an independent civil action from the original action pursuant to which the judgment or order sought to be enforced was entered.

452.402. GRANDPARENT'S VISITATION RIGHTS GRANTED, WHEN, TERMINATED, WHEN — GUARDIAN AD LITEM APPOINTED, WHEN — ATTORNEY FEES AND COSTS ASSESSED, WHEN. — 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights.

Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when [such rights have] **visitation has** been denied to them; **or**

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation [rights] to a parent of the deceased parent of the child; **or**

(3) The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition; **and**

(4) A grandparent is unreasonably denied visitation with the child for a period exceeding ninety days. However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision[]; or

(5) The child is adopted by a stepparent, another grandparent or other blood relative].

2. The court shall determine if the visitation by the grandparent would be in the child's best interest or if it would endanger the child's physical health or impair the child's emotional development. Visitation may only be ordered when the court finds such visitation to be in the best interests of the child. However, when the parents of the child are legally married to each other and are living together with the child, it shall be a rebuttable presumption that such parents know what is in the best interest of the child. The court may order reasonable conditions or restrictions on grandparent visitation.

3. If the court finds it to be in the best interests of the child, the court may appoint a guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice law in Missouri. The guardian ad litem may, for the purpose of determining the question of grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

4. A home study, as described by section 452.390, may be ordered by the court to assist in determining the best interests of the child.

5. The court may, in its discretion, consult with the child regarding the child's wishes in determining the best interest of the child.

6. The right of a grandparent to [seek or] maintain visitation rights pursuant to this section may terminate upon the adoption of the child.

7. The court may award reasonable attorneys fees and expenses to the prevailing party.

452.423. GUARDIAN AD LITEM APPOINTED, WHEN, DUTIES — DISQUALIFICATION, WHEN — FEES — VOLUNTEER ADVOCATES, EXPENSES. — 1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court may appoint a guardian ad litem. [The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged.] Disqualification of a guardian ad litem shall be ordered in any legal proceeding only pursuant to [chapter 210, RSMo, or] this chapter, upon the filing of a written application by any party within ten days of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem **appointed under this subsection** in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown.

2. **The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged.**

3. The guardian ad litem shall:

(1) Be the legal representative of the child at the hearing, and may examine, cross-examine, subpoena witnesses and offer testimony;

(2) Prior to the hearing, conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments and attitudes. If appropriate, the child should be interviewed;

(3) Request the juvenile officer to cause a petition to be filed in the juvenile division of the circuit court if the guardian ad litem believes the child alleged to be abused or neglected is in danger.

[3.] 4. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

[4.] 5. The guardian ad litem shall be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

[5.] 6. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person and shall have access to all records of such agencies or persons relating to the child or such child's family members. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

452.455. PETITION FOR MODIFICATION — PROCEDURE — CHILD SUPPORT DELINQUENCY, EFFECT OF. — 1. Any petition for modification of child custody decrees filed under the provisions of section 452.410, or sections 452.440 to 452.450, shall be verified and, if the original proceeding originated in the state of Missouri, shall be filed in that original case, but service shall be obtained and responsive pleadings may be filed as in any original proceeding.

2. Before making a decree under the provisions of section 452.410, or sections 452.440 to 452.450, the litigants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child must be served in the manner provided by the rules of civil procedure and applicable court rules and may within thirty days after the date of service (forty-five days if service by publication) file a verified answer. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to section 452.460.

3. In any case in which the paternity of a child has been determined by a court of competent jurisdiction and where the noncustodial parent is delinquent in the payment of child support in an amount in excess of ten thousand dollars, the custodial parent shall have the right to petition a court of competent jurisdiction for the termination of the parental rights of the noncustodial parent.

4. When a person filing a petition for modification of a child custody decree owes past due child support to a custodial parent in an amount in excess of ten thousand dollars, such person shall post a bond in the amount of past due child support owed as ascertained by the division of child support enforcement or reasonable legal fees of the custodial parent, whichever is greater, before the filing of the petition. The court shall hold the bond in escrow until the modification proceedings pursuant to this section have been concluded wherein such bond shall be transmitted to the division of child support enforcement for disbursement to the custodial parent.

453.020. PETITION — GUARDIAN AD LITEM APPOINTED — FEE. — 1. The petition for adoption shall state:

- (1) The name, sex and place of birth of the person sought to be adopted;
- (2) The name of his parents, if known to the petitioner;
- (3) If the person sought to be adopted is a minor, the fact that petitioner has the ability to properly care for, maintain and educate such person; and
- (4) If it is desired to change the name of such person, the new name.

2. The petition for adoption shall include payment of a fifty dollar filing fee which shall be used to fund the putative father registry established pursuant to section 192.016, RSMo.

453.025. APPOINTMENT OF GUARDIAN AD LITEM, WHEN — FEE — DUTIES OF GUARDIAN AD LITEM. — 1. The court shall, in all cases where the person sought to be adopted is under eighteen years of age, appoint a guardian ad litem, if not previously appointed pursuant to section 210.160, RSMo, to represent the person sought to be adopted.

2. When the parent is a minor or incompetent, the court shall appoint a guardian ad litem to represent such parent.

3. **The guardian ad litem may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.**

4. The guardian ad litem shall:

(1) Be the legal advocate for the best interest of the party he is appointed to represent with the power and authority to cross-examine, subpoena witnesses, and offer testimony;

(2) Initiate an appeal of any disposition that he determines to be adverse to the interests of the party he represents; and

(3) Ascertain the child's wishes, feelings and attitudes regarding the adoption by interviewing persons with knowledge of the child, and if appropriate, to meet with the child.

453.030. APPROVAL OF COURT REQUIRED — HOW OBTAINED, CONSENT OF CHILD AND PARENT REQUIRED, WHEN — VALIDITY OF CONSENT — WITHDRAWAL OF CONSENT — FORMS, DEVELOPED BY DEPARTMENT, CONTENTS — COURT APPOINTMENT OF ATTORNEY, WHEN. — 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same.

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

(1) The mother of the child; and

(2) [Any] **Only the man who:**

(a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child **and has served a copy of the petition on the mother in accordance with section 506.100, RSMo;** or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(3) The child's current adoptive parents or other legally recognized mother and father.

Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court within three business days of such consents being presented to the court. Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and [shall] **may** provide the names of all such persons [unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers]; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

10. The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

11. Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

12. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

13. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.

453.060. SERVICE ON PARTIES, HOW ACCOMPLISHED — PETITIONERS' NAMES NOT TO APPEAR ON COPY OF PETITION SERVED WITH SUMMONS, WHEN — RIGHT OF APPEAL — WAIVER OF SERVICE — PUTATIVE FATHER UNKNOWN, PROCEDURE. — 1. A writ of summons and a copy of the petition shall be served on:

(1) Any person, agency, organization or institution whose consent to the adoption is required by law unless such consent is filed in court;

(2) Any person whose consent to the adoption, according to the allegation of the petition for adoption, is not required for the reasons set forth in subdivision (6) or (7) of section 453.040;

(3) Any person, agency, organization or institution, within or without the state, having custody of the child sought to be adopted under a decree of a court of competent jurisdiction even though its consent to the adoption is not required by law;

(4) The legally appointed guardian of the child;

(5) Any person adjudicated by a court of this state or another state, a territory of the United States or another country to be the father of the child;

(6) Any person who has timely filed a notice of intent to claim paternity of the child pursuant to section 192.016, RSMo, or an acknowledgment of paternity pursuant to section 193.087, RSMo.

2. Except as provided in this section and section 453.014, it is not necessary to serve any person, agency, organization or institution whose consent is not required pursuant to the provisions of sections 453.030 to 453.050.

3. If service of summons cannot be made in the manner prescribed in section 506.150, RSMo, then the service shall be made by mail or publication as provided in section 506.160, RSMo.

4. Upon service, whether personal or constructive, the court may act upon the petition without the consent of any party, except that of a parent whose consent is required by sections 453.030 to 453.050, and the judgment is binding on all parties so served. Any such party has the right to appeal from the judgment in the manner and form provided by the civil code of Missouri.

5. In all cases where the putative father is unknown, [service shall be made by publication on "John Doe" as provided in section 506.160, RSMo] **a search of the Missouri putative father registry shall be conducted to determine if a man has filed or been registered with the registry. If such a man is discovered, service shall be carried out according to the provisions of this section.**

6. Upon request, the court may order that the writ of summons and copy of the petition required by this section may be served without the names and addresses of the petitioners when the court deems it to be in the best interests of the child.

453.061. CONCEPTION OF A CHILD, MAN DEEMED TO BE ON NOTICE, WHEN. — **Any man who has engaged in sexual intercourse with a woman is deemed to be on notice that a child may be conceived and as a result is entitled to notice of an adoption proceeding only as provided in this chapter.**

453.110. PROHIBITING TRANSFER OF CUSTODY OF CHILD — EXCEPTION — PENALTY — INVESTIGATION AND REPORT — TRANSFER OF CUSTODY ORDER ISSUED, WHEN. — 1. No person, agency, organization or institution shall surrender custody of a minor child, or transfer the custody of such a child to another, and no person, agency, organization or institution shall take possession or charge of a minor child so transferred, without first having filed a petition before the circuit court sitting as a juvenile court of the county where the child may be, praying that such surrender or transfer may be made, and having obtained such an order from such court approving or ordering transfer of custody.

2. If any such surrender or transfer is made without first obtaining such an order, such court shall, on petition of any public official or interested person, agency, organization or institution,

order an investigation and report as described in section 453.070 to be completed by the division of family services and shall make such order as to the custody of such child in the best interest of such child.

3. Any person violating the terms of this section shall be guilty of a class D felony.

4. The investigation required by subsection 2 of this section shall be initiated by the division of family services within forty-eight hours of the filing of the court order requesting the investigation and report and shall be completed within thirty days. The court shall order the person having custody in violation of the provisions of this section to pay the costs of the investigation and report.

5. This section shall not be construed to prohibit any parent, agency, organization or institution from placing a child [in a family home] **with another individual** for care if the right to supervise the care of the child and to resume custody thereof is retained, or from placing a child with a licensed foster home within the state through a child placing agency licensed by this state as part of a preadoption placement.

6. After the filing of a petition for the transfer of custody for the purpose of adoption, the court may enter an order of transfer of custody if the court finds all of the following:

(1) A family assessment has been made as required in section 453.070 and has been reviewed by the court;

(2) A recommendation has been made by the guardian ad litem;

(3) A petition for transfer of custody for adoption has been properly filed or an order terminating parental rights has been properly filed;

(4) The financial affidavit has been filed as required under section 453.075;

(5) The written report regarding the child who is the subject of the petition containing the information has been submitted as required by section 453.026;

(6) Compliance with the Indian Child Welfare Act, if applicable; and

(7) Compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo.

7. A hearing on the transfer of custody for the purpose of adoption is not required if:

(1) The conditions set forth in subsection 6 of this section are met;

(2) The parties agree and the court grants leave; and

(3) Parental rights have been terminated pursuant to section 211.444 or 211.447, RSMo.

475.024. TEMPORARY DELEGATION OF POWERS BY PARENT — EXCEPTIONS. — A parent of a minor, by a properly executed power of attorney, may delegate to another individual, for a period not exceeding one year, any of his **or her** powers regarding care or custody of the minor child, except his **or her** power to consent to marriage or adoption of the minor child.

487.100. MEDIATION, COUNSELING, HOME STUDY MAY BE RECOMMENDED — COSTS. — In any family court case the judge or commissioner may, on the judge's or commissioner's own motion or, at the request of a party, order or recommend mediation, counseling or a home study. The costs of such mediation, counseling or home study may be assessed against any party at any time and may be taxed as court costs paid by the party against whom costs are taxed or may be paid from the family services and justice fund established pursuant to section 487.170. **The amount assessed for such mediation, counseling, or home study shall be such amount as the court determines to be reasonable under the circumstances.** The party's ability to pay shall be a consideration when such costs are assessed.

491.075. STATEMENT OF CHILD UNDER FOURTEEN ADMISSIBLE, WHEN. — 1. A statement made by a child under the age of [twelve] **fourteen** relating to an offense under chapter 565, 566 or 568, RSMo, performed with or on a child by another, not otherwise admissible by statute or court rule, is admissible in evidence in criminal proceedings in the courts of this state as substantive evidence to prove the truth of the matter asserted if:

(1) The court finds, in a hearing conducted outside the presence of the jury that the time, content and circumstances of the statement provide sufficient indicia of reliability; and

(2) (a) The child testifies at the proceedings; or

(b) The child is unavailable as a witness; or

(c) The child is otherwise physically available as a witness but the court finds that the significant emotional or psychological trauma which would result from testifying in the personal presence of the defendant makes the child unavailable as a witness at the time of the criminal proceeding.

2. Notwithstanding subsection 1 of this section or any provision of law or rule of evidence requiring corroboration of statements, admissions or confessions of the defendant, and notwithstanding any prohibition of hearsay evidence, a statement by a child when under the age of [twelve] **fourteen** who is alleged to be victim of an offense under chapter 565, 566 or 568, RSMo, is sufficient corroboration of a statement, admission or confession regardless of whether or not the child is available to testify regarding the offense.

3. A statement may not be admitted under this section unless the prosecuting attorney makes known to the accused or [his] **the accused's** counsel his **or her** intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the accused or [his] **the accused's** counsel with a fair opportunity to prepare to meet the statement.

4. Nothing in this section shall be construed to limit the admissibility of statements, admissions or confessions otherwise admissible by law.

492.304. VISUAL AND AURAL RECORDINGS OF CHILD UNDER FOURTEEN ADMISSIBLE, WHEN. — 1. In addition to the admissibility of a statement under the provisions of section 492.303, the visual and aural recording of a verbal or nonverbal statement of a child when under the age of [twelve] **fourteen** who is alleged to be a victim of an offense under the provisions of chapter 565, 566 or 568, RSMo, is admissible into evidence if:

(1) No attorney for either party was present when the statement was made; **except that, for any statement taken at a state-funded child assessment center as provided for in subsection 2 of section 210.001, RSMo, an attorney representing the state of Missouri in a criminal investigation may, as a member of a multidisciplinary investigation team, observe the taking of such statement, but such attorney shall not be present in the room where the interview is being conducted;**

(2) The recording is both visual and aural and is recorded on film or videotape or by other electronic means;

(3) The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is accurate and has not been altered;

(4) The statement was not made in response to questioning calculated to lead the child to make a particular statement or to act in a particular way;

(5) Every voice on the recording is identified;

(6) The person conducting the interview of the child in the recording is present at the proceeding and available to testify or be cross-examined by either party; and

(7) The defendant or the attorney for the defendant is afforded an opportunity to view the recording before it is offered into evidence.

2. If the child does not testify at the proceeding, the visual and aural recording of a verbal or nonverbal statement of the child shall not be admissible under this section unless the recording qualifies for admission under section 491.075, RSMo.

3. If the visual and aural recording of a verbal or nonverbal statement of a child is admissible under this section and the child testifies at the proceeding, it shall be admissible in addition to the testimony of the child at the proceeding whether or not it repeats or duplicates the child's testimony.

4. As used in this section, a nonverbal statement shall be defined as any demonstration of the child by his or her actions, facial expressions, demonstrations with a doll or other visual aid whether or not this demonstration is accompanied by words.

537.046. CHILDHOOD SEXUAL ABUSE, INJURY OR ILLNESS DEFINED — ACTION FOR DAMAGES MAY BE BROUGHT, WHEN. — 1. As used in this section, the following terms mean:

(1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff which act occurred when the plaintiff was under the age of eighteen years and which act would have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

(2) "Injury" or "illness", either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

2. [In any civil action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within five years of the date the plaintiff attains the age of eighteen or within three years of the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse, whichever later occurs.] **Any action to recover damages from injury or illness caused by childhood sexual abuse in an action brought pursuant to this section, shall be commenced within ten years of the plaintiff attaining the age of twenty-one or within three years of the date the plaintiff discovers, or reasonably should have discovered, that the injury or illness was caused by childhood sexual abuse, whichever later occurs.**

3. This section shall apply to any action commenced on or after [August 28, 1990] **the effective date of this section**, including any action which would have been barred by the application of the statute of limitation applicable prior to that date.

701.336. DEPARTMENT TO COOPERATE WITH FEDERAL GOVERNMENT — INFORMATION TO BE PROVIDED TO CERTAIN PERSONS — LEAD TESTING OF CHILDREN, STRATEGY TO INCREASE NUMBER. — 1. The department of health and senior services shall cooperate with the federal government in implementing subsections (d) and (e) of 15 U.S.C. 2685 to establish public education activities and an information clearinghouse regarding childhood lead poisoning. The department may develop additional educational materials on lead hazards to children, lead poisoning prevention, lead poisoning screening, lead abatement and disposal, and on health hazards during abatement.

2. **The department of health and senior services and the department of social services, in collaboration with related not-for-profit organizations, health maintenance organizations, and the Missouri consolidated health care plan, shall devise an educational strategy to increase the number of children who are tested for lead poisoning under the Medicaid program. The goal of the educational strategy is to have seventy-five percent of the children who receive Medicaid tested for lead poisoning. The educational strategy shall be implemented over a three-year period and shall be in accordance with all federal laws and regulations.**

3. The division of family services, in collaboration with the department of health and senior services, shall regularly inform eligible clients of the availability and desirability of lead screening and treatment services, including those available through the early and periodic screening, diagnosis, and treatment (EPSDT) component of the Medicaid program.

SECTION 1. NONOFFENDING PARENT, CHILD RETURNED TO CUSTODY OF, WHEN. — 1. **For purposes of proceedings and investigations conducted pursuant to chapter 211, RSMo, children shall be promptly returned to the care and custody of a nonoffending parent entitled to physical custody of the child if:**

(1) **The parents have continuously maintained joint domicile for a period of at least six months prior to the alleged incident or the parents are maintaining separate households; and**

(2) A preponderance of the evidence indicates that only one of the parents is the subject of an investigation of abuse or neglect; and

(3) The nonoffending parent does not have a history of criminal behavior, drug or alcohol abuse, child abuse or child neglect, domestic violence, stalking, or full orders of protection entered against them within the past five years; and

(4) The parents are maintaining joint domicile and the offending parent is removed from the home voluntarily or involuntarily, or the parents live separately and the child is removed from the home of the custodial parent; and

(5) A nonoffending parent requests custody of the child and agrees to cooperate with any orders of the court limiting contact or establishing visitation with the offending parent and the nonoffending parent complies with such orders.

When the parents maintain joint domicile or comply with court-ordered visitation, there shall be a rebuttable presumption that the nonoffending parent has not committed any violation of sections 568.030, 568.032, 568.045, 568.050, or 568.060, RSMo, or has not engaged in any conduct that would constitute child abuse or neglect under chapter 210, RSMo. In order to rebut the presumption there must be a finding of actual harm or endangerment to the child if the child is placed in the custody of the nonoffending parent.

2. Nothing in this section shall prevent the division or the court from exercising its discretion to return a child or children to the custody of any individual.

SECTION 2. SEVERABILITY CLAUSE. — If any provision of this act is found by a court of competent jurisdiction to be invalid or unconstitutional it is the stated intent of the legislature that the legislature would have approved the remaining portions of the act, and the remaining portions of the act shall remain in full force and effect.

[26.740. CHILD ABUSE, CUSTODY AND NEGLECT COMMISSION CREATED, MEMBERS, TERMS — REPORTS — EXPIRATION DATE. — 1. There is hereby created within the office of the governor a "Child Abuse, Custody and Neglect Commission" which shall evaluate the laws and rules relating to child abuse, neglect, child custody and visitation and termination of parental rights and shall make recommendations on further action or legislative remedies, if any, to be taken as necessary. The commission shall review and recommend standardized guidelines for judicial review of what constitutes the best interest of the child.

2. The child abuse, custody and neglect commission shall be composed of twelve members to be appointed by the governor, including a county prosecutor, a law enforcement officer, a juvenile officer, a certified guardian ad litem, a juvenile court judge, a member of the clergy, a psychologist, a pediatrician, an educator, the chairman of the children's services commission, a division of family services designee, and one citizen of the state of Missouri, chosen to reflect the racial composition of the state, to serve four-year terms and of the members first appointed, four shall serve for a term of two years, four shall serve for a term of three years, and four shall serve for a term of four years.

3. The commission shall make its first report to the governor and the general assembly by February 1, 2002, and any subsequent reports shall be made to the governor, the chief justice of the supreme court and the general assembly as necessary.

4. All members shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the commission.

5. The office of the governor shall provide funding, administrative support, and staff for the effective operation of the commission.

6. This section shall expire on August 28, 2004.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the safety of children receiving child protective services, the enactment of section 208.647 and the repeal and reenactment of sections 135.327 and 211.032 of section A of this act is deemed

necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 208.647 and the repeal and reenactment of sections 135.327 and 211.032 of section A of this act shall be in full force and effect on July 1, 2004, or upon its passage and approval, whichever later occurs.

Approved June 29, 2004

HB 1456 [SCS HCS HB 1456 AND HB 824]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes a transient guest tax for tourism purposes and infrastructure improvements in Marston, Matthews, Concordia, and Steele.

AN ACT to repeal section 94.834, RSMo, and to enact in lieu thereof two new sections relating to transient guest taxes.

SECTION

- A. Enacting clause.
- 94.834. Tourism tax on transient guests in hotels and motels (Marshall, Sweet Springs, and Concordia).
- 94.836. Tourism tax on transient guests in hotels and motels (Marston, Matthews, Steele) — procedure, ballot, use of revenues — repeal of tax.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 94.834, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 94.834 and 94.836, to read as follows:

94.834. TOURISM TAX ON TRANSIENT GUESTS IN HOTELS AND MOTELS (MARSHALL, SWEET SPRINGS, AND CONCORDIA). — 1. The governing body of any city of the third classification with more than twelve thousand four hundred but less than twelve thousand five hundred inhabitants, **the governing body of any city of the fourth classification with more than two thousand three hundred but less than two thousand four hundred inhabitants and located in any county of the fourth classification with more than thirty-two thousand nine hundred but less than thirty-three thousand inhabitants**, and the governing body of any city of the fourth classification with more than one thousand six hundred but less than one thousand seven hundred inhabitants and located in any county of the fourth classification with more than twenty-three thousand seven hundred but less than twenty-three thousand eight hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax pursuant to this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and the proceeds of such tax shall be used by the city solely for the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city) at a rate of (insert rate of percent) percent for the sole purpose of promoting tourism?

YES

NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax authorized by this section shall not become effective unless and until the question is resubmitted pursuant to this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

3. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

94.836. TOURISM TAX ON TRANSIENT GUESTS IN HOTELS AND MOTELS (MARSTON, MATTHEWS, STEELE)—PROCEDURE, BALLOT, USE OF REVENUES—REPEAL OF TAX. — 1. The governing body of any city of the fourth classification with more than six hundred but less than seven hundred inhabitants and located in any county of the second classification with more than nineteen thousand seven hundred but less than nineteen thousand eight hundred inhabitants or any city of the fourth classification with more than two thousand two hundred but less than two thousand three hundred inhabitants and located in any county of the third classification without a township form of government and with more than twenty thousand but less than twenty thousand one hundred inhabitants may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof, which shall be not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city) at a rate of (insert rate of percent) percent for tourism purposes, including infrastructure improvements?

YES

NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters of the city and such question is approved by a majority of the qualified voters of the city voting on the question.

3. At least sixty-five percent of the revenue generated by the tax authorized in this section shall be used by the city solely for tourism purposes, and not more than thirty-five percent of the revenue generated may be used for infrastructure improvements. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special

trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city funds.

4. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for tourism purposes?

☐ YES ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city, and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters of the city and the repeal is approved by a majority of the qualified voters voting on the question.

6. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

Approved June 25, 2004

HB 1487 [CCS HS HB 1487]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the crime of kidnapping by including kidnapping of a child under fourteen years of age.

AN ACT to repeal sections 556.037, 565.110, and 567.030, RSMo, and to enact in lieu thereof twelve new sections relating to crimes against persons, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
 - 556.037. Time limitations for prosecutions for sexual offenses involving a person under eighteen.
 - 565.110. Kidnapping — penalty.
 - 565.115. Child kidnapping — penalty.
 - 566.200. Definitions.
-

- 566.203. Abusing an individual through forced labor — penalty.
- 566.206. Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor — penalty.
- 566.209. Trafficking for the purpose of sexual exploitation — penalty.
- 566.212. Sexual trafficking of a child — penalty.
- 566.215. Contributing to human trafficking — penalty.
- 566.218. Restitution required for certain offenders.
- 566.223. Federal Trafficking Victims Protection Act of 2000 to apply, when.
- 567.030. Patronizing prostitution — penalty.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 556.037, 565.110, and 567.030, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 556.037, 565.110, 565.115, 566.200, 566.203, 566.206, 566.209, 566.212, 566.215, 566.218, 566.223, and 567.030, to read as follows:

556.037. TIME LIMITATIONS FOR PROSECUTIONS FOR SEXUAL OFFENSES INVOLVING A PERSON UNDER EIGHTEEN. — **Notwithstanding** the provisions of section 556.036, [to the contrary notwithstanding,] prosecutions for unlawful sexual offenses involving a person eighteen years of age or under must be commenced within [ten] **twenty** years after the victim reaches the age of eighteen **unless the prosecutions are for forcible rape, attempted forcible rape, forcible sodomy, kidnapping, or attempted forcible sodomy in which case such prosecutions may be commenced at any time.**

565.110. KIDNAPPING — PENALTY. — 1. A person commits the crime of kidnapping if he **or she** unlawfully removes another without his **or her** consent from the place where he **or she** is found or unlawfully confines another without his **or her** consent for a substantial period, for the purpose of

(1) Holding that person for ransom or reward, or for any other act to be performed or not performed for the return or release of that person; or

(2) Using the person as a shield or as a hostage; or

(3) Interfering with the performance of any governmental or political function; or

(4) Facilitating the commission of any felony or flight thereafter; or

(5) Inflicting physical injury on or terrorizing the victim or another.

2. Kidnapping is a class A felony unless committed under subdivision (4) or (5) of subsection 1 in which cases it is a class B felony.

565.115. CHILD KIDNAPPING — PENALTY. — 1. A person commits the crime of child kidnapping if such person is not a relative of the child within the third degree and such person:

(1) Unlawfully removes a child under the age of fourteen without the consent of such child's parent or guardian from the place where such child is found; or

(2) Unlawfully confines a child under the age of fourteen without the consent of such child's parent or guardian.

2. In determining whether the child was removed or confined unlawfully, it is an affirmative defense that the person reasonably believed that the person's actions were necessary to preserve the child from danger to his or her welfare.

3. Child kidnapping is a class A felony.

566.200. DEFINITIONS. — As used in sections 566.200 to 566.218, the following terms shall mean:

(1) "Commercial sex act", any sex act on account of which anything of value is given to or received by any person;

(2) "Involuntary servitude or forced labor", a condition of servitude induced by means of:

(a) Any scheme, plan, or pattern of behavior intended to cause a person to believe that, if the person does not enter into or continue the servitude, such person or another person will suffer substantial bodily harm or physical restraint; or

(b) The abuse or threatened abuse of the legal process;

(3) "Peonage", illegal and involuntary servitude in satisfaction of debt.

566.203. ABUSING AN INDIVIDUAL THROUGH FORCED LABOR — PENALTY. — 1. A person commits the crime of abusing an individual through forced labor by knowingly providing or obtaining the labor or services of a person:

(1) By threats of serious harm or physical restraint against such person or another person;

(2) By means of any scheme, plan, or pattern of behavior intended to cause such person to believe that, if the person does not perform the labor services, the person or another person will suffer substantial bodily harm or physical restraint; or

(3) By means of the abuse or threatened abuse of the law or the legal process.

2. A person who pleads guilty to or is found guilty of the crime of abuse through forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of abuse through forced labor is a class B felony.

566.206. TRAFFICKING FOR THE PURPOSE OF SLAVERY, INVOLUNTARY SERVITUDE, PEONAGE, OR FORCED LABOR — PENALTY. — 1. A person commits the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor if a person knowingly recruits, harbors, transports, provides, or obtains by any means, another person for labor or services, for the purposes of slavery, involuntary servitude, peonage, or forced labor.

2. A person who pleads guilty to or is found guilty of the crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of trafficking for the purposes of slavery, involuntary servitude, peonage, or forced labor is a class B felony.

566.209. TRAFFICKING FOR THE PURPOSE OF SEXUAL EXPLOITATION — PENALTY. — 1. A person commits the crime of trafficking for the purposes of sexual exploitation if a person knowingly recruits, transports, provides, or obtains by any means, another person for the use or employment of such person in sexual conduct as defined in section 556.061, RSMo, without his or her consent.

2. The crime of trafficking for the purposes of sexual exploitation is a class B felony.

566.212. SEXUAL TRAFFICKING OF A CHILD — PENALTY. — 1. A person commits the crime of sexual trafficking of a child if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means a person under the age of eighteen to participate in a commercial sex act or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of eighteen to engage in a commercial sex act.

2. It shall not be an affirmative defense that the defendant believed that the person was eighteen years of age or older.

3. The crime of sexual trafficking of a child is a class A felony if the child is under the age of eighteen.

566.215. CONTRIBUTING TO HUMAN TRAFFICKING — PENALTY. — 1. A person commits the crime of contributing to human trafficking through the misuse of documentation when the individual knowingly:

(1) Destroys, conceals, removes, confiscates, or possesses a valid or purportedly valid passport, government identification document, or other immigration document of another person while committing crimes or with the intent to commit crimes, pursuant to sections 566.200 to 566.218; or

(2) Prevents, restricts, or attempts to prevent or restrict, without lawful authority, a person's ability to move or travel by restricting the proper use of identification, in order to maintain the labor or services of a person, who is the victim of a crime committed pursuant to sections 566.200 to 566.218.

2. A person who pleads guilty to or is found guilty of the crime of contributing to human trafficking through the misuse of documentation shall not be required to register as a sexual offender pursuant to the provisions of section 589.400, RSMo, unless such person is otherwise required to register pursuant to the provisions of such section.

3. The crime of contributing to human trafficking through the misuse of documentation is a class D felony.

566.218. RESTITUTION REQUIRED FOR CERTAIN OFFENDERS. — A court sentencing an offender convicted of violating the provisions of sections 566.203, 566.206, 566.209, 566.212, and 566.215, shall order the offender to pay restitution to the victim of the offense.

566.223. FEDERAL TRAFFICKING VICTIMS PROTECTION ACT OF 2000 TO APPLY, WHEN. — Any individual who is alleging that a violation of sections 566.200 to 566.218 has occurred against his or her person, shall be afforded the rights and protections provided in the federal Trafficking Victims Protection Act of 2000, Public Law 106-386, as amended.

567.030. PATRONIZING PROSTITUTION — PENALTY. — 1. A person commits the crime of patronizing prostitution if he patronizes prostitution.

2. It shall not be an affirmative defense that the defendant believed that the person he or she patronized for prostitution was eighteen years of age or older.

3. Patronizing prostitution is a class B misdemeanor, unless the individual who the person is patronizing is under the age of eighteen but older than the age of fourteen, in which case patronizing prostitution is a class A misdemeanor.

4. Patronizing prostitution is a class D felony if the individual who the person patronizes is fourteen years of age or younger. Nothing in this section shall preclude the prosecution of an individual for the offenses of:

- (1) Statutory rape in the first degree pursuant to section 566.032, RSMo;
- (2) Statutory rape in the second degree pursuant to section 566.034, RSMo;
- (3) Statutory sodomy in the first degree pursuant to section 566.062, RSMo; or
- (4) Statutory sodomy in the second degree pursuant to section 566.064, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the children of this state from kidnapping, the repeal and reenactment of section 565.110 and the enactment of section 565.115 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 565.110 and the enactment of section 565.115 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 17, 2004

HB 1494 [HB 1494]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides for election of regional recreational district board members in Clay County.

AN ACT to repeal section 67.797, RSMo, and to enact in lieu thereof one new section relating to boards of directors for regional recreational districts.

SECTION

A. Enacting clause.

67.797. Board of directors appointed for district or elected in certain districts (Clay County), qualifications — terms — officers — powers and duties — money to be deposited in treasury of county containing largest portion of district.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 67.797, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.797, to read as follows:

67.797. BOARD OF DIRECTORS APPOINTED FOR DISTRICT OR ELECTED IN CERTAIN DISTRICTS (CLAY COUNTY), QUALIFICATIONS — TERMS — OFFICERS — POWERS AND DUTIES — MONEY TO BE DEPOSITED IN TREASURY OF COUNTY CONTAINING LARGEST PORTION OF DISTRICT. — 1. When a regional recreational district is organized in only one county, the executive, as that term is defined in subdivision (4) of section 67.750, with the advice and consent of the governing body of the county shall appoint a board of directors for the district consisting of seven persons, chosen from the residents of the district. Where the district is in more than one county, the executives, as defined in subdivision (4) of section 67.750, of the counties in the district shall, with the advice and consent of the governing bodies of each county shall, as nearly as practicable, evenly appoint such members and allocate staggered terms pursuant to subsection 2 of this section, with the county having the largest area within the district appointing a greater number of directors if the directors cannot be appointed evenly. No member of the governing body of the county or official of any municipal government located within the district shall be a member of the board and no director shall receive compensation for performance of duties as a director. Members of the board of directors shall be citizens of the United States and they shall reside within the district. No board member shall be interested directly or indirectly in any contract entered into pursuant to sections 67.792 to 67.799.

2. The directors appointed to the regional recreation district shall hold office for three-year terms, except that of the members first appointed, two shall hold office for one year, two shall hold office for two years and three shall hold office for three years. The executives of the counties within the regional recreational district shall meet to determine and implement a fair allocation of the staggered terms among the counties, provided that counties eligible to appoint more than one board member may not appoint board members with identical initial terms until each of a one-year, two-year and three-year initial term has been applied to such county. On the expiration of such initial terms of appointment and on the expiration of any subsequent term, the resulting vacancies shall be filled by the executives of the respective counties, with the advice and consent of the respective governing bodies. All vacancies on the board shall be filled in the same manner for the duration of the term being filled. Board members shall serve until their successors are named and such successors have commenced their terms as board members. Board members shall be eligible for reappointment. Upon the petition of the county executive of the county from which the board member received his or her appointment, the governing body of the county may remove any board member for misconduct or neglect of duties.

3. Notwithstanding any other provision of sections 67.750 to 67.799, to the contrary, after August 28, 2004, in any district located in whole or in part in any county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, upon the expiration of such initial terms of appointment and on the expiration of any subsequent term, the resulting vacancies shall be filled by election at the next regularly scheduled election date throughout the district. In the event that a vacancy exists before the expiration of a term, the governing body of the county shall appoint a member for the remainder of the unexpired term. Board members shall be elected for terms of three years. Such elections shall be held according to this section and the applicable laws of this state. If no person files as a candidate for election to the vacant office within the applicable deadline for filing as a candidate, then the governing body of any such county shall appoint a person to be a member of the board for a term of three years. Any appointed board members shall be eligible to run for office.

4. Directors shall immediately after their appointment meet and organize by the election of one of their number president, and by the election of such other officers as they may deem necessary. The directors shall make and adopt such bylaws, rules and regulations for their guidance and for the government of the parks, neighborhood trails and recreational grounds and facilities as may be expedient, not inconsistent with sections 67.792 to 67.799. They shall have the exclusive control of the expenditures of all money collected to the credit of the regional recreational fund and of the supervision, improvement, care and custody of public parks, neighborhood trails, recreational facilities and grounds owned, maintained or managed by the district. All moneys received for such purposes shall be deposited in the treasury of the county containing the largest portion of the district to the credit of the regional recreational fund and shall be kept separate and apart from the other moneys of such county. Such board shall have power to purchase or otherwise secure ground to be used for such parks, neighborhood trails, recreational grounds and facilities, shall have power to appoint suitable persons to maintain such parks, neighborhood trails and recreational facilities and administer recreational programs and fix their compensation, and shall have power to remove such appointees.

[4.] 5. The board of directors may issue debt for the district pursuant to section 67.798.

[5.] 6. If a county, or a portion of a county, not previously part of any district, shall enter a district, the executives of the new member county and any previous member counties shall promptly meet to apportion the board seats among the counties participating in the enlarged district. All purchases in excess of ten thousand dollars used in the construction or maintenance of any public park, neighborhood trail or recreational facility in the regional recreation district shall be made pursuant to the lowest and best bid standard as provided in section 34.040, RSMo, or pursuant to the lowest and best proposal standard as provided in section 34.042, RSMo. The board of the district shall have the same discretion, powers and duties as the commissioner of administration has in sections 34.040 and 34.042, RSMo.

Approved July 2, 2004

HB 1502 [HB 1502]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes laws related to the Kansas City Public School Retirement System.

AN ACT to repeal sections 169.270, 169.291, 169.295, 169.311, 169.313, 169.322, 169.324, and 169.328, RSMo, and to enact in lieu thereof seven new sections relating to school employee retirement.

SECTION

- A. Enacting clause.
- 169.270. Definitions.
- 169.291. Board of trustees, qualifications, terms — superintendent of school district to be member — vacancies — lapse of corporate organization, effect of — oaths — officers — expenses — powers and duties — medical board, appointment — contribution rates of employers, amount.
- 169.295. Board of trustees, powers and duties.
- 169.311. One year creditable service, how computed.
- 169.322. Retirement for disability — periodic examination — subsequent reemployment and retirement.
- 169.324. Retirement allowances, minimum amounts — retirants may substitute without affecting allowance, limitation — annual determination of ability to provide benefits, standards — action plan for use of minority and women money managers, brokers and investment counselors.
- 169.328. Accumulated contributions returned to member, when.
- 169.313. Prior service granted to reemployed members.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 169.270, 169.291, 169.295, 169.311, 169.313, 169.322, 169.324, and 169.328, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 169.270, 169.291, 169.295, 169.311, 169.322, 169.324, and 169.328, RSMo, to read as follows:

169.270. DEFINITIONS. — Unless a different meaning is clearly required by the context, the following words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

- (1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member or paid on behalf of the member by the employer and credited to the member's individual account together with interest thereon in the employees' contribution fund. The board of trustees shall determine the rate of interest allowed thereon as provided for in section 169.295;
- (2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of formulas and/or tables which have been approved by the board of trustees;
- (3) "Average final compensation", the highest average annual compensation received for any four consecutive years of service. In determining whether years of service are "consecutive", only periods for which creditable service is earned shall be considered, and all other periods shall be disregarded;
- (4) "Beneficiary", any person designated by a member for a retirement allowance or other benefit as provided by sections 169.270 to 169.400;
- (5) "Board of education", the board of directors or corresponding board, by whatever name, having charge of the public schools of the school district in which the retirement system is established;
- (6) "Board of trustees", the board provided for in section 169.291 to administer the retirement system;
- (7) "Break in service", an occurrence when a regular employee ceases to be a regular employee for any reason **other than retirement** (including termination of employment, resignation, [retirement] or furlough but not including vacation, sick leave, excused absence or leave of absence granted by an employer) and such person does not again become a regular employee until after **sixty consecutive calendar days have elapsed, or after** fifteen consecutive school or work days have elapsed, **whichever occurs later. A break in service also occurs when a regular employee retires under the retirement system established by section 169.280 and does not again become a regular employee until after fifteen consecutive school or work days have elapsed.** A "school or work day" is a day on which the employee's employer requires (or if the position no longer exists, would require, based on past practice) employees having the former employee's last job description to report to their place of employment for any reason;

(8) "Charter school", any charter school established pursuant to sections 160.400 to 160.420, RSMo, and located, at the time it is established, within the school district;

(9) "Compensation", the regular compensation as shown on the salary and wage schedules of the employer [plus], **including** any amounts paid by the employer on a member's behalf pursuant to subdivision (5) of subsection 1 of section 169.350, but such term is not to include extra pay, overtime pay, consideration for entering into early retirement, or any other payments not included on salary and wage schedules. For any year beginning after December 31, 1988, the annual compensation of each member taken into account under the retirement system shall not exceed the limitation set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended;

(10) "Creditable service", the amount of time that a regular employee is a member of the retirement system and makes contributions thereto in accordance with the provisions of sections 169.270 to 169.400;

(11) "Employee", any person who is classified by the school district, a charter school, the library district or the retirement system established by section 169.280 as an employee of such employer and is reported contemporaneously for federal and state tax purposes as an employee of such employer. A person is not considered to be an employee for purposes of such retirement system with respect to any service for which the person was not reported contemporaneously for federal and state tax purposes as an employee of such employer, regardless of whether the person is or may later be determined to be or to have been a common law employee of such employer, including but not limited to a person classified by the employer as independent contractors and persons employed by other entities which contract to provide staff and services to the employer. In no event shall a person reported for federal tax purposes as an employee of a private, for-profit entity be deemed to be an employee eligible to participate in the retirement system established by section 169.280 with respect to such employment;

(12) "Employer", the school district, any charter school, the library district, or the retirement system established by section 169.280, or any combination thereof, as required by the context to identify the employer of any member, or, for purposes only of subsection 2 of section 169.324, of any retiree;

(13) "Employer's board", the board of education, the governing board of any charter school, the board of trustees of the library district, the board of trustees, or any combination thereof, as required by the context to identify the governing body of an employer;

(14) "Library district", any urban public library district created from or within a school district under the provisions of section 182.703, RSMo;

(15) "Medical board", the board of physicians provided for in section 169.291;

(16) "Member", any person who is a regular employee after the retirement system has been established hereunder ("active member"), and any person who (i) was an active member, (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement allowance hereunder ("inactive member");

(17) "Minimum normal retirement age", the earlier of the **date the member [attaining] attains** the age of sixty or **the date the member** has a total of at least seventy-five credits, with each year of creditable service[, and prorated for fractional years, equal to one credit] and each year of age[, and] **equal to one credit, with both years of creditable service and years of age** prorated for fractional years[, equal to one credit];

(18) "Prior service", service prior to the date the system becomes operative which is creditable in accordance with the provisions of section 169.311. Prior service in excess of thirty-eight years shall be considered thirty-eight years;

(19) "Regular employee", any employee who is assigned to an established position which requires service of not less than [five] **twenty-five** hours [per day, five days] per week, and not less than nine calendar months a year. Any regular employee who is subsequently assigned without break in service to a position demanding less service than is required of a regular employee shall continue the employee's status as a regular employee. [However.] **Except as**

stated in the preceding sentence, a temporary, part-time, or furloughed employee is not a regular employee;

(20) "Retirant", a former member receiving a retirement allowance hereunder;

(21) "Retirement allowance", annuity payments to a retirant or to such beneficiary as is entitled to same;

(22) "School district", any school district in which a retirement system shall be established under section 169.280.

169.291. BOARD OF TRUSTEES, QUALIFICATIONS, TERMS — SUPERINTENDENT OF SCHOOL DISTRICT TO BE MEMBER — VACANCIES — LAPSE OF CORPORATE ORGANIZATION, EFFECT OF — OATHS — OFFICERS — EXPENSES — POWERS AND DUTIES — MEDICAL BOARD, APPOINTMENT — CONTRIBUTION RATES OF EMPLOYERS, AMOUNT. — 1. The general administration and the responsibility for the proper operation of the retirement system are hereby vested in a board of trustees of twelve persons who shall be resident taxpayers of the school district, as follows:

(1) Four trustees to be appointed for terms of four years by the board of education; provided, however, that the terms of office of the first four trustees so appointed shall begin immediately upon their appointment and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(2) Four trustees to be elected for terms of four years by and from the members of the retirement system; provided, however, that the terms of office of the first four trustees so elected shall begin immediately upon their election and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(3) The ninth trustee shall be the superintendent of schools of the school district;

(4) The tenth trustee shall be one retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 13, 1986, by the retirants of the retirement system;

(5) The eleventh trustee shall be appointed for a term of four years beginning the first day of January immediately following August 13, 1990, by the board of trustees described in subdivision (3) of section 182.701, RSMo;

(6) The twelfth trustee shall be a retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 28, 1992, by the retirants of the retirement system.

2. If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except that the board of trustees may appoint a qualified person to fill the vacancy in the office of an elected member until the next regular election at which time a member shall be elected for the unexpired term. No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies.

3. In the event of a lapse of the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, the general administration and responsibility for the proper operation of the retirement system shall continue to be vested in a twelve-person board of trustees, all of whom shall be resident taxpayers of a city, other than a city not within a county, of four hundred thousand or more. In such event, if vacancies occur in the offices of the four trustees appointed, prior to the lapse, by the board of education, or in the offices of the four trustees elected, prior to the lapse, by the members of the retirement system, or in the office of trustee held, prior to the lapse, by the superintendent of schools in the school district, as provided in subdivisions (1), (2) and (3) of subsection 1 of this section, the board of trustees shall appoint a qualified person to fill each vacancy and subsequent vacancies in the office of trustee for terms of up to four years, as determined by the board of trustees.

4. Each trustee shall, before assuming the duties of a trustee, take the oath of office before the court of the judicial circuit or one of the courts of the judicial circuit in which the school

district is located that so far as it devolves upon the trustee, such trustee shall diligently and honestly administer the affairs of the board of trustees and that the trustee will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the trustee making it and filed in the office of the clerk of the circuit court.

5. Each trustee shall be entitled to one vote in the board of trustees. Seven trustees shall constitute a quorum at any meeting of the board of trustees. At any meeting of the board of trustees where a quorum is present, the vote of at least seven of the trustees in support of a motion, resolution or other matter is necessary to be the decision of the board; provided, however, that in the event of a lapse in the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, a majority of the trustees then in office shall constitute a quorum at any meeting of the board of trustees, and the vote of a majority of the trustees then in office in support of a motion, resolution or other matter shall be necessary to be the decision of the board.

6. The board of trustees shall have exclusive original jurisdiction in all matters relating to or affecting the funds herein provided for, including, in addition to all other matters, all claims for benefits or refunds, and its action, decision or determination in any matter shall be reviewable in accordance with chapter 536, RSMo, or chapter 621, RSMo. Subject to the limitations of sections 169.270 to 169.400, the board of trustees shall, from time to time, establish rules and regulations for the administration of funds of the retirement system, for the transaction of its business, and for the limitation of the time within which claims may be filed.

7. The trustees shall serve without compensation. The board of trustees shall elect from its membership a chairman and a vice chairman. The board of trustees shall appoint an executive director who shall serve as the administrative officer of the retirement system and as secretary to the board of trustees. It shall employ one or more persons, firms or corporations experienced in the investment of moneys to serve as investment counsel to the board of trustees. The compensation of all persons engaged by the board of trustees and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board of trustees shall approve, and shall be paid from the investment income.

8. The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuations of the various funds of the retirement system and for checking the experience of the system.

9. The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall prepare annually and furnish to the board of education and to each member of the retirement system who so requests a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

10. The board of trustees shall have, in its own name, power to sue and to be sued, to enter into contracts, to own property, real and personal, and to convey the same; but the members of such board of trustees shall not be personally liable for obligations or liabilities of the board of trustees or of the retirement system.

11. The board of trustees shall arrange for necessary legal advice for the operation of the retirement system.

12. The board of trustees shall designate a medical board to be composed of three **or more** physicians who shall not be eligible for membership in the system and who shall pass upon all medical examinations required under the provisions of sections 169.270 to 169.400, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it.

13. The board of trustees shall designate an actuary who shall be the technical advisor of the board of trustees on matters regarding the operation of the retirement system and shall

perform such other duties as are required in connection therewith. Such person shall be qualified as an actuary by membership as a Fellow of the Society of Actuaries or by similar objective standards.

14. At least once in each five-year period the actuary shall make an investigation into the actuarial experience of the members, retirants and beneficiaries of the retirement system and, taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such actuarial assumptions as the board of trustees deems necessary for the financial soundness of the retirement system.

15. On the basis of such actuarial assumptions as the board of trustees adopts, the actuary shall make annual valuations of the assets and liabilities of the funds of the retirement system.

16. The rate of contribution payable by the employer shall equal one and ninety-nine one-hundredths percent, effective July 1, 1993; three and ninety-nine one-hundredths percent, effective July 1, 1995; five and ninety-nine one-hundredths percent, effective July 1, 1996; seven and one-half percent effective January 1, 1999, and for all subsequent years.

17. In the event of a lapse of a school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, no retirement system, nor any of the assets of any retirement system, shall be transferred to or merged with another retirement system without prior approval of such transfer or merge by the board of trustees of the retirement system.

169.295. BOARD OF TRUSTEES, POWERS AND DUTIES. — 1. The board of trustees shall be the trustees of all the funds of the system and shall have full power to invest and reinvest such funds. The trustees shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which the funds shall have been invested, and the proceeds thereof.

2. The board of trustees shall allow interest annually on the balance in each member's account at the beginning of the year at the rate approved by the board. The board shall adjust the balance of the general reserve fund for investment realized and unrealized gains, losses, income and expenses, not so allowed as interest on members' accounts.

3. The board of trustees shall elect a treasurer who shall serve at the board's pleasure. The treasurer shall be the custodian of the funds provided for in section 169.350 and shall give such bond for the faithful handling of the funds as the board of trustees shall determine. The board of trustees may employ [a bank] **one or more banks** having fiduciary powers for the provisions of such custodial or clerical service as the board may deem appropriate to assist the treasurer. Disbursement of funds of the retirement system shall be under the supervision of the treasurer and shall be in accordance with procedures established or approved by the board of trustees with the concurrence of the system's auditors.

4. For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total amount in the funds of the retirement system, on deposit in one or more banks or trust companies in the school district, organized under the laws of the state of Missouri, or of the United States; provided, that the amount on deposit in any one bank or trust company shall not exceed twenty-five percent of the paid-up capital and surplus of such bank or trust company, and for all deposits in excess of ten thousand dollars the board of trustees shall require of the banks or trust companies as security for the safekeeping and payment of the deposits securities of a like kind and character as may be required by law for the safekeeping and payment of deposits made by the state treasurer.

5. Except as herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investment made by the board of trustees. No trustee or employee of the board of trustees shall directly or indirectly for such person or as an agent in any manner use the assets of the retirement system except to make such current and necessary payments as are authorized by the board of trustees, nor shall any trustee or employee of the board of trustees become in any manner an obligor for moneys loaned by or borrowed from the board of trustees.

6. In the event that any employer offers to its employees an early retirement option, or any other form of group exit incentive program, the board of trustees is hereby authorized to permit such employer or any active member who participates in such group exit incentive program to purchase additional creditable service, in increments of not less than one month, and shall fix and determine by proper rules and regulations, which may be amended from time to time, the amount of service that may be purchased and the cost thereof. Under no circumstance, however, shall:

- (1) The amount of such purchased creditable service exceed twenty-four months;
- (2) The cost of purchasing such creditable service be less than the amount necessary to pay the full actuarial cost to the retirement system of the additional purchased service;
- (3) The purchasing employer or active member be permitted to elect to purchase such creditable service after the expiration of a reasonable time period, which time period shall be specified in the above-referenced rules and regulations;
- (4) Such purchased creditable service count toward the vesting requirements of section 169.301; or
- (5) This subsection be applied in any manner that would not be in compliance with applicable provisions of the Internal Revenue Code.

169.311. ONE YEAR CREDITABLE SERVICE, HOW COMPUTED. — [1.] The board of trustees shall fix and determine by proper rules and regulations how much service in any year is equivalent to one year of creditable service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board of trustees allow credit as service for any period of more than one pay period's duration, as shown on the salary and wage schedules of the employer, during all of which the member was absent without pay unless such member pays the employee contributions, including contributions by the employer in lieu of employee contributions, for such period as permitted by the board of trustees in accordance with the provisions of section 169.315.

[2. Under the rules and regulations that the board of trustees adopts, each member who was an employee on and prior to the date the retirement system becomes operative and who becomes a member within one year of such date shall file a detailed statement of all service as an employee for which such person claims credit rendered by such person prior to that date.

3. Subject to the above restrictions and to the other rules and regulations that the board of trustees adopts, the board of trustees shall verify the service claims as soon as practicable, after the filing of the statements of service.

4. Upon verification of the statements of service, the board of trustees shall issue prior service certificates, certifying to each member the length of prior service with which the member is credited on the basis of the member's statement of service. So long as the holder of a certificate continues to be a member, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member may, within one year from the date of issuance or modification of the certificate, request the board of trustees to modify or correct the person's prior service certificate. When any employee ceases to be a member, the person's prior service certificate becomes void, and if the person again becomes a member the person shall enter the retirement system as a member not entitled to prior service credit, except as provided in section 169.313.]

169.322. RETIREMENT FOR DISABILITY — PERIODIC EXAMINATION — SUBSEQUENT REEMPLOYMENT AND RETIREMENT. — 1. Upon the written application of an active member or of the person's employer's board, any active member who has five or more years of creditable service shall be retired by the board of trustees on a disability retirement allowance, if the medical board after a medical examination of such member, **or based on such other medical information as the medical board may require**, shall certify that such member is mentally or physically unable to perform such member's employment duties and that such incapacity is likely to be permanent. Application for a disability retirement allowance may be made after the

member ceases to be an active member; provided that, the disability commenced while the member was an active member, and further provided that application is made no later than six months after the disabled member ceases to be an employee of his or her employer. The first monthly payment of such disability retirement allowance shall not be made to such member so long as the member receives compensation from the member's employer.

2. Upon retirement for disability, a member shall receive a disability retirement allowance which shall be determined in the same manner as the service retirement allowance as set forth in section 169.324, but not less than the minimum disability retirement allowance provided in this section. The minimum disability retirement allowance shall be the lesser of:

(1) Twenty-five percent of the person's average final compensation; or

(2) The member's service retirement allowance calculated based on the member's final average compensation and the maximum number of years of creditable service the member would have earned had the member remained an employee until attaining the age of sixty.

3. Once each year during the first five years following a member's retirement on a disability retirement allowance and once in every three-year period thereafter, the board of trustees may require any disability retirant who has not yet attained minimum normal retirement age to undergo a medical examination at a place designated by the medical board, such examination to be made by the medical board or by a physician or physicians designated by such board. Should any such disability retirant refuse to submit to such medical examination, the person's disability allowance may be discontinued until the person's withdrawal of such refusal, and should the person's refusal continue for one year all rights in and to the person's disability allowance shall be revoked by the board of trustees.

4. Should the board of trustees determine that any disability retirant who has not yet attained minimum normal retirement age is engaged in or is able to engage in a gainful occupation paying more than the difference between the person's monthly disability retirement allowance plus any Social Security benefits to which the person is eligible and the current rate of monthly compensation for the position the person held at retirement, then the amount of the person's disability retirement allowance shall be reduced to an amount which together with Social Security benefits and the amount earnable by the person shall equal such current rate of monthly compensation. Should the person's earning capacity be later changed, the amount of the person's disability retirement allowance may be further modified. The board of trustees may engage those persons, firms or corporations which it deems necessary to assist the board of trustees in making any determination under this subsection.

5. Should any member retired for disability be restored to active service as a regular employee, the member's disability retirement allowance shall cease and the member shall again become a member of the retirement system, and contribute thereunder. Anything in sections 169.270 to 169.400 to the contrary notwithstanding, a disability retirant who has not attained the minimum normal retirement age at the date of again becoming a member shall have the person's creditable service at the time of the person's disability retirement restored, and the excess of the person's accumulated contributions at time of retirement over the total payments which the person received during retirement shall be credited to the person's account. Upon subsequent retirement, the person shall be entitled to a service retirement allowance to the extent the person meets the requisite qualifications, and the person's prior disability retirement allowance shall not be resumed. If a disability retirant has attained the minimum normal retirement age at the date of again becoming a member, the disability retirement allowance the person was receiving immediately prior to restoration of membership shall be resumed on subsequent retirement, together with such retirement allowances as shall accrue by reason of the person's latest period of membership. For the sole purpose of determining the person's eligibility for such additional retirement allowance, but not for determining the amount, all of the person's years of creditable service, whether before or after the person's period of disability, for which the person has made contributions which have not been withdrawn, shall be considered.

169.324. RETIREMENT ALLOWANCES, MINIMUM AMOUNTS — RETIRANTS MAY SUBSTITUTE WITHOUT AFFECTING ALLOWANCE, LIMITATION — ANNUAL DETERMINATION OF ABILITY TO PROVIDE BENEFITS, STANDARDS — ACTION PLAN FOR USE OF MINORITY AND WOMEN MONEY MANAGERS, BROKERS AND INVESTMENT COUNSELORS. — 1. The annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by one and three-fourths percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. For any member who retires as an active member on or after June 30, 1999, the annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by two percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. Any member whose number of years of creditable service is greater than thirty-four and one-quarter on August 28, 1993, shall receive an annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the retirant's number of years of creditable service as of August 28, 1993, multiplied by one and three-fourths percent of the person's average final compensation but shall not receive a greater annual service retirement allowance based on additional years of creditable service after August 28, 1993. Provided, however, that, effective January 1, 1996, any retiree who retired on, before or after January 1, 1996, with at least twenty years of creditable service shall receive at least three hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326. Provided, further, any retiree who retired with at least ten years of creditable service shall receive at least one hundred fifty dollars each month as a retirement allowance, plus fifteen dollars for each additional full year of creditable service greater than ten years but less than twenty years (or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326). Any beneficiary of a deceased retiree who retired with at least ten years of creditable service and elected one of the options available under section 169.326 shall also be entitled to the actuarial equivalent of the minimum benefit provided by this subsection, determined from the option chosen.

2. Except as otherwise provided in sections **169.331**, 169.580 and 169.585, payment of a retirant's retirement allowance will be suspended for any month for which such person receives remuneration from the person's employer or from any other employer in the retirement system established by section 169.280 for the performance of services except **any** such person **other than a person receiving a disability retirement allowance under section 169.322** may serve as a nonregular substitute, part-time or temporary employee for not more than six hundred hours in any school year without becoming a member and without having the person's retirement allowance discontinued. If a retirant is reemployed by any employer in any capacity, whether pursuant to this section, [section] **or section 169.331**, 169.580, or [section] 169.585, or as a regular employee, the amount of such person's retirement allowance attributable to service prior to the person's first retirement date shall not be changed by the reemployment. If the person again becomes an active member and earns additional creditable service, upon the person's second retirement the person's retirement allowance shall be the sum of:

(1) The retirement allowance the person was receiving at the time the person's retirement allowance was suspended, pursuant to the payment option elected as of the first retirement date, plus the amount of any increase in such retirement allowance the person would have received pursuant to subsection 3 of this section had payments not been suspended during the person's reemployment; and

(2) An additional retirement allowance computed using the benefit formula in effect on the person's second retirement date, the person's creditable service following reemployment, and the person's average annual compensation as of the second retirement date.

The sum calculated pursuant to this subsection shall not exceed the greater of sixty percent of the person's average final compensation as of the second retirement date or the amount

determined pursuant to subdivision (1) of this subsection. Compensation earned prior to the person's first retirement date shall be considered in determining the person's average final compensation as of the second retirement date if such compensation would otherwise be included in determining the person's average final compensation.

3. The board of trustees shall determine annually whether the investment return on funds of the system can provide for an increase in benefits for retirants eligible for such increase. A retirant shall and will be eligible for an increase awarded pursuant to this section as of the second January following the date the retirant commenced receiving retirement benefits. Any such increase shall also apply to any monthly joint and survivor retirement allowance payable to such retirant's beneficiaries, regardless of age. The board shall make such determination as follows:

(1) After determination by the actuary of the investment return for the preceding year as of December thirty-first (the "valuation year"), the actuary shall recommend to the board of trustees what portion of the investment return is available to provide such benefits increase, if any, and shall recommend the amount of such benefits increase, if any, to be implemented as of the first day of the thirteenth month following the end of the valuation year, and the first payable on or about the first day of the fourteenth month following the end of the valuation year. The actuary shall make such recommendations so as not to affect the financial soundness of the retirement system, recognizing the following safeguards:

(a) The retirement system's funded ratio as of January first of the year preceding the year of a proposed increase shall be at least one hundred percent after adjusting for the effect of the proposed increase. The funded ratio is the ratio of assets to the pension benefit obligation;

(b) The actuarially required contribution rate, after adjusting for the effect of the proposed increase, may not exceed the statutory contribution rate;

(c) The actuary shall certify to the board of trustees that the proposed increase will not impair the actuarial soundness of the retirement system;

(d) A benefit increase, under this section, once awarded, cannot be reduced in succeeding years;

(2) The board of trustees shall review the actuary's recommendation and report and shall, in their discretion, determine if any increase is prudent and, if so, shall determine the amount of increase to be awarded.

4. This section does not guarantee an annual increase to any retirant.

5. If an inactive member becomes an active member after June 30, 2001, and after a break in service, unless the person earns at least four additional years of creditable service without another break in service, upon retirement the person's retirement allowance shall be calculated separately for each separate period of service ending in a break in service. The retirement allowance shall be the sum of the separate retirement allowances computed for each such period of service using the benefit formula in effect, the person's average final compensation as of the last day of such period of service and the creditable service the person earned during such period of service; provided, however, if the person earns at least four additional years of creditable service without another break in service, all of the person's creditable service prior to and including such service shall be aggregated and, upon retirement, the retirement allowance shall be computed using the benefit formula in effect and the person's average final compensation as of the last day of such period of four or more years and all of the creditable service the person earned prior to and during such period.

6. Notwithstanding anything contained in this section to the contrary, the amount of the annual service retirement allowance payable to any retirant pursuant to the provisions of sections 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section, shall at all times comply with the provisions and limitations of Section 415 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

7. All retirement systems established by the laws of the state of Missouri shall develop a procurement action plan for utilization of minority and women money managers, brokers and

investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

169.328. ACCUMULATED CONTRIBUTIONS RETURNED TO MEMBER, WHEN. — 1. Should a member cease to be a regular employee, except by retirement, the member, if living, shall be paid on demand, made by written notice to the board of trustees, the amount of the person's accumulated contributions (with interest as determined by the board of trustees as provided in sections 169.270 to 169.400) standing to the credit of the person's individual account in the employees' contribution fund. The accumulated contributions with interest shall not be paid to a member so long as the person remains a regular employee **or before the member incurs a break in service**. If the member dies before retirement such accumulated contributions (with interest) shall be paid to the member's estate or designated beneficiary unless the provisions of subsection 3 of section 169.326 apply.

2. If a former unvested member's accumulated contributions have not been withdrawn four years after the person has ceased to be a member (other than by reason of death or retirement), the board of trustees shall pay the same to such former member within a reasonable time after the expiration of such four-year period.

3. If, on account of undeliverability, improper mailing or forwarding address, or other similar problem, the board of trustees is unable to refund the accumulated contributions of a former unvested member or to commence payment of retirement benefits within four years after the end of the calendar year in which such former member ceased to be a regular employee, the board may transfer the accumulated contributions to the general reserve fund. If, thereafter, written application is made to the board of trustees for such refund or benefits, the board shall cause the same to be paid from the general reserve fund, but no interest shall be accrued after the end of the fourth year following the end of the calendar year in which such former member ceased to be a regular employee.

4. In its discretion the board of trustees may approve extensions of any time periods in this section on account of a former member's military or naval service, academic study or illness.

[169.313. PRIOR SERVICE GRANTED TO REEMPLOYED MEMBERS. — The board of trustees may grant prior service credit to an active member who was employed by the school district prior to January 1, 1944, if the member has ceased to be an employee and returns as an employee of the school district after January 1, 1944, and has received credit for at least one year of membership service for each year of prior service claimed. Three-fourths credit may be granted for a year of prior service for completion of each year of required membership service, provided the member has a minimum of five continuous years of membership service after the member's reemployment. The maximum number of years for prior service shall be limited to sixteen years and the maximum amount of prior service credit shall be limited to twelve years; provided, further, that all membership credit must be reinstated before prior service credit, if any, is allowed.]

Approved July 1, 2004

HB 1508 [HB 1508]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that emblem-use fees received by the Kansas City Chiefs shall be forwarded to the "Chiefs' Children's Fund", a not for profit organization established to benefit K.C.-area children in need.

AN ACT to repeal section 301.472, RSMo, and to enact in lieu thereof one new section relating to Kansas City Chiefs' license plates.

SECTION

A. Enacting clause.

301.472. Professional sports team special license plates, emblem — teams to make agreement for use of emblem with department of revenue — procedure to use, application, form, fee — sports team to forward contributions, where, amount — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.472, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.472, to read as follows:

301.472. PROFESSIONAL SPORTS TEAM SPECIAL LICENSE PLATES, EMBLEM — TEAMS TO MAKE AGREEMENT FOR USE OF EMBLEM WITH DEPARTMENT OF REVENUE — PROCEDURE TO USE, APPLICATION, FORM, FEE — SPORTS TEAM TO FORWARD CONTRIBUTIONS, WHERE, AMOUNT — RULEMAKING AUTHORITY. — 1. Any motor vehicle owner may receive special license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight as prescribed in this section after an annual payment of an emblem-use authorization fee to a professional sports team which has made an agreement pursuant to subsection 5 of this section. For the purposes of this section a "professional sports team" shall mean an organization located in this state franchised by the National Professional Soccer League, the National Football League, the National Basketball Association, the National Hockey League, the International Hockey League, or the American League or the National League of Major League Baseball or a team playing in Major League Soccer.

2. The professional sports team which has made an agreement pursuant to subsection 5 of this section and which receives the emblem-use authorization fee hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any vehicle owner may annually apply for the use of the emblem. The director of revenue shall not authorize the manufacturer of the material to produce such license plates with the individual seal, logo, or emblem until the department of revenue receives a minimum of one hundred applications for each specific professional sports team.

3. Upon annual application and payment of a thirty-five dollar emblem-use contribution to the professional sports team such team shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the director of the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of other documents which may be required by law, the director shall issue a personalized license plate, which shall bear the official emblem of the professional sports team in a manner determined by the director. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. A fee for the issuance of personalized license plates issued pursuant to section 301.144 shall not be required for plates issued pursuant to this section.

4. A vehicle owner, who was previously issued a plate with a professional sports team emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the professional sports team emblem, as otherwise provided by law.

5. The director of the department of revenue is authorized to make agreements with professional sports teams on behalf of the state which allow the use of any such team's official emblem pursuant to the provisions of this section as consideration for receiving a thirty-five dollar emblem-use contribution.

6. **Except as provided in subsection 7**, a professional sports team receiving a thirty-five dollar contribution shall forward such contribution, less an amount not in excess of five percent of the contribution for the costs of administration, to the Jackson County Sports Authority or the St. Louis Regional Convention and Visitors Commission. The moneys shall be administered as follows:

(1) The sports authority may retain not in excess of five percent of all funds forwarded to it pursuant to this section for the costs of administration and shall expend the remaining balance of such funds, after consultation with a professional sports team within the authority's area, on marketing and promoting such team. The amount of money expended from the funds obtained pursuant to this section by the authority per professional sports team shall be in the same proportion to the total funds available to be expended on such team as the proportion of contributions forwarded by the team to the authority is to the total contributions received by the authority;

(2) The regional convention and visitors commission shall hold the revenues received from the professional sports teams in the St. Louis area in separate accounts for each team. Each team may submit an annual marketing plan to the commission. Expenses of a team which are in accordance with the marketing plan shall be reimbursed by the commission as long as moneys are available in the account. The commission may retain not in excess of five percent for the costs of administration. If no marketing plan is submitted by a team, the commission shall market and promote the team.

7. **The Kansas City Chiefs shall forward all emblem-use fees received, less an amount not in excess of five percent of the costs of administration, to the Chiefs' Children's Fund, a not-for-profit fund established to benefit children in need in the Kansas City area.**

8. The director of the department of revenue shall promulgate rules and regulations for the administration of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

Approved July 1, 2004

HB 1511 [SS HS HCS HB 1511]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts the Missouri Uniform Trust Code.

AN ACT to repeal sections 301.681, 306.458, 306.461, 362.600, 456.010, 456.015, 456.016, 456.020, 456.030, 456.040, 456.050, 456.055, 456.060, 456.070, 456.072, 456.075, 456.080, 456.090, 456.100, 456.110, 456.120, 456.130, 456.140, 456.150, 456.160, 456.170, 456.180, 456.183, 456.185, 456.187, 456.190, 456.195, 456.200, 456.210, 456.220, 456.225, 456.230, 456.232, 456.233, 456.234, 456.235, 456.236, 456.240, 456.250, 456.260, 456.270, 456.280, 456.290, 456.300, 456.310, 456.320, 456.330, 456.340, 456.350, 456.400, 456.410, 456.420, 456.430, 456.440, 456.450, 456.460, 456.470, 456.480, 456.490, 456.500, 456.510, 456.520, 456.524, 456.530, 456.535, 456.540, 456.550, 456.560, 456.570, 456.580, 456.610, 456.620, 456.630, 456.640, 456.650, 456.660, 456.670, 456.900, 456.901, 456.902, 456.903, 456.904, 456.905, 456.906, 456.907, 456.908, 456.909, 456.910, 456.911, 456.912, 456.913, 461.300, 469.401, 469.409, 469.411, 469.419, 469.423, 469.435, 469.449 and 469.453, RSMo, and to enact in lieu thereof one hundred fifty-six new sections relating to trust and estate administration.

SECTION

- A. Enacting clause.
- 301.681. Certificate of ownership in beneficiary form — multiple beneficiaries allowed — reassignment permitted — procedure to issue, content, fee — consent not required for transactions, revocation — interest subject to certain claims — transfer not deemed testamentary.
- 306.458. Certificate of title, two or more persons, not held as tenants in common, death of one tenant, transfer to surviving owners, procedure, fee — tenants in common, death of one tenant, procedure to transfer, fee.
- 306.461. Certificate of title in beneficiary form — multiple beneficiaries allowed — procedure to issue, content, fee — consent not required for transactions, revocation — interest subject to certain claims — transfer not deemed testamentary.
- 362.600. Reciprocal corporate fiduciary powers — certificates of reciprocity.
- 456.001-101. Short title.
- 456.001-102. Scope.
- 456.001-103. Definitions.
- 456.001-104. Knowledge.
- 456.001-105. Default and mandatory rules.
- 456.001-106. Common law of trusts — principles of equity.
- 456.001-107. Governing law.
- 456.001-108. Principal place of administration.
- 456.001-109. Methods and waiver of notice.
- 456.001-110. Others treated as qualified beneficiaries.
- 456.001-111. Nonjudicial settlement agreements.
- 456.001-112. Rules of construction.
- 456.002-201. Role of court in administration of trust.
- 456.002-202. Jurisdiction over trustee and beneficiary.
- 456.002-204. Venue.
- 456.003-301. Representation, basic effect.
- 456.003-302. Representation by holder of general testamentary power of appointment.
- 456.003-303. Representation by fiduciaries and parents.
- 456.003-304. Representation by person having substantially identical interest.
- 456.003-305. Appointment of representative.
- 456.004-401. Methods of creating trust.
- 456.004-402. Requirements for creation.
- 456.004-403. Trusts created in other jurisdictions.
- 456.004-404. Trust purposes.
- 456.004-405. Charitable purposes — enforcement.
- 456.004-406. Creation of trust induced by fraud, duress, or undue influence.
- 456.004-407. Evidence of oral trust.
- 456.004-408. Trust for care of animal.
- 456.004-409. Noncharitable trust without ascertainable beneficiary.
- 456.004-410. Modification or termination of trust — proceedings for approval or disapproval.
- 456.004-411A. Modification or termination of noncharitable irrevocable trust by consent.
- 456.004-411B. Modification or termination of noncharitable irrevocable trust by consent.
- 456.004-412. Modification or termination because of unanticipated circumstances or inability to administer trust effectively.
- 456.004-413. Cy pres.
- 456.004-414. Modification or termination of uneconomic trust.
- 456.004-415. Reformation to correct mistakes.
- 456.004-416. Modification to achieve settlor's tax objectives.
- 456.004-417. Combination and division of trusts.
- 456.005-501. Rights of beneficiary's creditor or assignee.
- 456.005-502. Spendthrift provision.
- 456.005-503. Exceptions to Spendthrift provision.
- 456.005-504. Discretionary trusts — effect of standard.
- 456.005-505. Creditor's claim against settlor.
- 456.005-506. Overdue distribution.
- 456.005-507. Personal obligations of trustee.
- 456.006-601. Capacity of settlor of revocable trust.
- 456.006-602. Revocation or amendment of revocable trust.
- 456.006-603. Settlor's powers — powers of withdrawal.
- 456.006-604. Limitation on action contesting validity of revocable trust — distribution of trust property.
- 456.007-701. Accepting of declining trusteeship.
- 456.007-702. Trustee's bond.
- 456.007-703. Cotrustees.
- 456.007-704. Vacancy in trusteeship — appointment of successor.

- 456.007-705. Resignation of trustee.
 - 456.007-706. Removal of trustee.
 - 456.007-707. Delivery of property by former trustee.
 - 456.007-708. Compensation of trustee.
 - 456.007-709. Reimbursement of expenses.
 - 456.008-801. Duty to administer trust.
 - 456.008-802. Duty of loyalty.
 - 456.008-803. Impartiality.
 - 456.008-804. Prudent administration.
 - 456.008-805. Costs of administration.
 - 456.008-806. Trustee's skills.
 - 456.008-807. Delegation by trustee.
 - 456.008-808. Powers to direct.
 - 456.008-809. Control and protection of trust property.
 - 456.008-810. Record keeping and identification of trust property.
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 - 456.008-814. Discretionary powers — tax savings.
 - 456.008-815. General powers of trustee.
 - 456.008-816. Specific powers of trustee.
 - 456.008-817. Distribution upon termination.
 - 456.010-1001. Remedies for breach of trust.
 - 456.010-1002. Damages for breach of trust.
 - 456.010-1003. Damages in absence of breach.
 - 456.010-1004. Attorney's fees and costs.
 - 456.010-1005. Limitation of action against trustee.
 - 456.010-1006. Reliance on trust instrument.
 - 456.010-1007. Event affecting administration or distribution.
 - 456.010-1008. Exculpation of trustee.
 - 456.010-1009. Beneficiary's consent, release, or ratification.
 - 456.010-1010. Limitation on personal liability of trustee.
 - 456.010-1011. Interest as general partner.
 - 456.010-1012. Protection of person dealing with trustee.
 - 456.010-1013. Certification of trust.
 - 456.011-1101. Uniformity of application and construction.
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 - 456.011-1103. Severability clause.
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 - 456.015. Bequests or transfer to spouse, valuation of.
 - 456.001. Bequests or transfer to spouse, valuation of.
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 - 456.003. Absence of active duties not to curtail powers of trustee.
 - 456.030. Life insurance trusts.
 - 456.005. Life insurance trusts.
 - 456.040. Lessor, trustee of deposits by lessee, when — exception.
 - 456.007. Lessor, trustee of deposits by lessee, when — exception.
 - 456.050. Lessor liable for double amount of deposit so held in trust, when.
 - 456.009. Lessor liable for double amount of deposit so held in trust, when.
 - 456.060. Trusts for benefit of employees or self-employed persons — perpetuities — suspension of alienation.
 - 456.011. Trusts for benefit of employees or self-employed persons — perpetuities — suspension of alienation.
 - 456.070. Trusts for benefit of employees or self-employed persons — accumulation.
 - 456.013. Trusts for benefit of employees or self-employed persons — accumulation.
 - 456.072. Trust for benefit of employees — spendthrift trust, when — exempt from certain attachments, exception.
 - 456.015. Trust for benefit of employees — spendthrift trust, when — exempt from certain attachments, exception.
 - 456.075. Applicability of sections 456.060, 456.070 and 456.072.
 - 456.017. Applicability of sections 456.060, 456.070 and 456.072.
 - 456.230. Trustees of private foundations, charitable trusts or split-interest trusts, certain acts prohibited.
 - 456.019. Trustees of private foundations, charitable trusts or split-interest trusts, certain acts prohibited.
 - 456.232. Addition to trusts.
 - 456.021. Addition to trusts.
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- 456.235. Power of appointment not exercised by will, when.
- 456.023. Power of appointment not exercised by will, when.
- 456.236. Inapplicability of the rule against perpetuities — rule prohibiting unreasonable restraints or suspension of power of alienation not violated, when — rule against accumulations not applicable, when.
- 456.025. Inapplicability of the rule against perpetuities — rule prohibiting unreasonable restraints or suspension of power of alienation not violated, when — rule against accumulations not applicable, when.
- 456.400. Registration of trust.
- 456.027. Registration of trust.
- 456.410. Registration procedure.
- 456.029. Registration procedure.
- 456.420. Records and certified copies.
- 456.031. Records and certified copies.
- 456.430. Effect of registration.
- 456.033. Effect of registration.
- 456.620. Evidence as to death or status — five-year absence presumption of death.
- 456.035. Evidence as to death or status — five-year absence presumption of death.
- 456.640. Trust property — when deemed unclaimed.
- 456.037. Trust property — when deemed unclaimed.
- 456.650. Procedure by trustee with respect to unclaimed property.
- 456.039. Procedure by trustee with respect to unclaimed property.
- 456.660. Unclaimed property — liability of trustee.
- 456.041. Unclaimed property — liability of trustee.
- 461.300. Beneficiaries to pay, pro rata share of all property received to cover statutory allowances and claims due estate, enforced by action for accounting, time limitation — action affect on transferring entity.
- 456.240. Definitions.
- 469.240. Definitions.
- 456.250. Payment or transfers to fiduciaries or at the direction of the fiduciary, effect on transferor.
- 469.250. Payment or transfers to fiduciaries or at the direction of the fiduciary, effect on transferor.
- 456.260. Transfer of negotiable instrument by fiduciary.
- 469.260. Transfer of negotiable instrument by fiduciary.
- 456.270. Check drawn by fiduciary payable to third person.
- 469.270. Check drawn by fiduciary payable to third person.
- 456.280. Check drawn by and payable to fiduciary.
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Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.681, 306.458, 306.461, 362.600, 456.010, 456.015, 456.016, 456.020, 456.030, 456.040, 456.050, 456.055, 456.060, 456.070, 456.072, 456.075, 456.080, 456.090, 456.100, 456.110, 456.120, 456.130, 456.140, 456.150, 456.160, 456.170, 456.180, 456.183, 456.185, 456.187, 456.190, 456.195, 456.200, 456.210, 456.220, 456.225, 456.230, 456.232, 456.233, 456.234, 456.235, 456.236, 456.240, 456.250, 456.260, 456.270, 456.280, 456.290, 456.300, 456.310, 456.320, 456.330, 456.340, 456.350, 456.400, 456.410, 456.420, 456.430, 456.440, 456.450, 456.460, 456.470, 456.480, 456.490, 456.500, 456.510, 456.520, 456.524, 456.530, 456.535, 456.540, 456.550, 456.560, 456.570, 456.580, 456.610, 456.620, 456.630, 456.640, 456.650, 456.660, 456.670, 456.900, 456.901, 456.902, 456.903, 456.904, 456.905, 456.906, 456.907, 456.908, 456.909, 456.910, 456.911, 456.912, 456.913, 461.300, 469.401, 469.409, 469.411, 469.419, 469.423, 469.435, 469.449 and 469.453, are repealed and one hundred fifty-six new sections enacted in lieu thereof, to be known as sections 301.681, 306.458, 306.461, 362.600, 456.1-101, 456.1-102, 456.1-103, 456.1-104, 456.1-105, 456.1-106, 456.1-107, 456.1-108, 456.1-109, 456.1-110, 456.1-111, 456.1-112, 456.2-201, 456.2-202, 456.2-204, 456.3-301, 456.3-302, 456.3-303, 456.3-304, 456.3-305, 456.4-401, 456.4-402, 456.4-403, 456.4-404, 456.4-405, 456.4-406, 456.4-407, 456.4-408, 456.4-409, 456.4-410, 456.4-411A, 456.4-411B, 456.4-412, 456.4-413, 456.4-414, 456.4-415, 456.4-416, 456.4-417, 456.5-501, 456.5-502, 456.5-503, 456.5-504, 456.5-505, 456.5-506, 456.5-507, 456.6-601, 456.6-602, 456.6-603, 456.6-604, 456.7-701, 456.7-702, 456.7-703, 456.7-704, 456.7-705, 456.7-706, 456.7-707, 456.7-708, 456.7-709, 456.8-801, 456.8-802, 456.8-803, 456.8-804, 456.8-805, 456.8-806, 456.8-807, 456.8-808, 456.8-809, 456.8-810, 456.8-811, 456.8-812, 456.8-813, 456.8-814, 456.8-815, 456.8-816, 456.8-817, 456.10-1001, 456.10-1002, 456.10-1003, 456.10-1004, 456.10-1005, 456.10-1006, 456.10-1007, 456.10-1008, 456.10-1009, 456.10-1010, 456.10-1011, 456.10-1012, 456.10-1013, 456.11-1101, 456.11-1102, 456.11-1103, 456.11-1104, 456.11-1106, 456.001, 456.003, 456.005, 456.007, 456.009, 456.011, 456.013, 456.015, 456.017, 456.019, 456.021, 456.023, 456.025, 456.027, 456.029, 456.031, 456.033, 456.035, 456.037, 456.039, 456.041, 461.300, 469.240, 469.250, 469.260, 469.270, 469.280, 469.290, 469.300, 469.310, 469.320, 469.330, 469.340, 469.350, 469.401, 469.402, 469.409, 469.411, 469.419, 469.423, 469.435, 469.449, 469.453, 469.900, 469.901, 469.902, 469.903, 469.904, 469.905, 469.906, 469.907, 469.908, 469.909, 469.910, 469.911, 469.912, 469.913, 700.630, and 1, to read as follows:

301.681. CERTIFICATE OF OWNERSHIP IN BENEFICIARY FORM — MULTIPLE BENEFICIARIES ALLOWED — REASSIGNMENT PERMITTED — PROCEDURE TO ISSUE, CONTENT, FEE — CONSENT NOT REQUIRED FOR TRANSACTIONS, REVOCATION — INTEREST SUBJECT TO CERTAIN CLAIMS — TRANSFER NOT DEEMED TESTAMENTARY. — 1. A sole owner of a motor vehicle or trailer, and multiple owners of a motor vehicle or trailer who hold their interest as joint tenants with right of survivorship or as tenants by the entirety, on application and payment of the fee required for an original certificate of ownership, may request

the director of revenue to issue a certificate of ownership for the motor vehicle or trailer in beneficiary form which includes a directive to the director of revenue to transfer the certificate of ownership on death of the sole owner or on death of all multiple owners to one beneficiary or to two or more beneficiaries as joint tenants with right of survivorship or as tenants by the entirety named on the face of the certificate. **The directive to the director of revenue also shall permit the beneficiary or beneficiaries to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary or beneficiaries name.**

2. A certificate of ownership in beneficiary form may not be issued to persons who hold their interest in a motor vehicle or trailer as tenants in common.

3. A certificate of ownership issued in beneficiary form shall include after the name of the owner, or after the names of multiple owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

4. (1) During the lifetime of a sole owner [and during the lifetime of all multiple owners] **or prior to the death of the last surviving multiple owner**, the signature or consent of the beneficiary or beneficiaries shall not be required for any transaction relating to the motor vehicle or trailer for which a certificate of ownership in beneficiary form has been issued.

(2) A certificate of ownership in beneficiary form may be revoked or the beneficiary or beneficiaries changed at any time before the death of a sole owner or **the last** surviving multiple owner only by the following methods:

(a) By a sale of the motor vehicle or trailer with proper assignment and delivery of the certificate of ownership to another person; or

(b) By filing an application to reissue the certificate of ownership with no designation of a beneficiary or with the designation of a different beneficiary or beneficiaries with the director of revenue in proper form and accompanied by the payment of the fee for an original certificate of ownership.

(3) The beneficiary's or beneficiaries' interest in the motor vehicle or trailer at death of the owner or surviving owner shall be subject to any contract of sale, assignment of ownership or security interest to which the owner or owners of the motor vehicle or trailer were subject during their lifetime.

(4) The designation of a beneficiary or beneficiaries in a certificate of ownership issued in beneficiary form may not be changed or revoked by a will, any other instrument, or a change in circumstances, or otherwise be changed or revoked except as provided by subdivision (2) of this subsection.

5. (1) On proof of death of one of the owners of two or more multiple owners, or of a sole owner, surrender of the outstanding certificate of ownership, and on application and payment of the fee for an original certificate of ownership, the director of revenue shall issue a new certificate of ownership for the motor vehicle or trailer to the surviving owner or owners or, if none, to the surviving beneficiary or beneficiaries, subject to any outstanding security interest; and the current valid certificate of number shall be so transferred. **If the surviving beneficiary or beneficiaries makes a request of the director of revenue, the director may allow the beneficiary or beneficiaries to make one assignment of title.**

(2) The director of revenue may rely on a death certificate or record or report that constitutes prima facie proof or evidence of death under subdivisions (1) and (2) of section 472.290, RSMo.

(3) The transfer of a motor vehicle or trailer at death pursuant to this section is effective by reason of sections 301.675 to 301.682 and sections 306.455 to 306.465, RSMo, and is not to be considered as testamentary, or to be subject to the requirements of section 473.087, RSMo, or section 474.320, RSMo.

306.458. CERTIFICATE OF TITLE, TWO OR MORE PERSONS, NOT HELD AS TENANTS IN COMMON, DEATH OF ONE TENANT, TRANSFER TO SURVIVING OWNERS, PROCEDURE, FEE —

TENANTS IN COMMON, DEATH OF ONE TENANT, PROCEDURE TO TRANSFER, FEE. — 1. A certificate of title for an outboard motor or vessel issued in the names of two or more persons that does not show on the face of the certificate that the persons hold their interest in the outboard motor or vessel as tenants in common, on death of one of the named persons, may be transferred to the surviving owner or owners. On proof of death of one of the persons in whose names the certificate was issued, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate for the outboard motor or vessel to the surviving owner or owners; and the current valid certificate of number shall be so transferred. **The directive to the director of revenue also shall permit the beneficiary or beneficiaries to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary or beneficiaries name.**

2. A certificate of title for an outboard motor or vessel, issued in the names of two or more persons that shows on its face that the persons hold their interest in the outboard motor or vessel as tenants in common, on death of one of the named persons, may be transferred by the director of revenue on application by the surviving owners and the personal representative or successors of the deceased owner. Upon being presented proof of death of one of the persons in whose names the certificate of title was issued; surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the outboard motor or vessel to the surviving owners and personal representative or successors of the deceased owner; and the current valid certificate of number shall be transferred.

306.461. CERTIFICATE OF TITLE IN BENEFICIARY FORM — MULTIPLE BENEFICIARIES ALLOWED — PROCEDURE TO ISSUE, CONTENT, FEE — CONSENT NOT REQUIRED FOR TRANSACTIONS, REVOCATION — INTEREST SUBJECT TO CERTAIN CLAIMS — TRANSFER NOT DEEMED TESTAMENTARY. — 1. A sole owner of an outboard motor or vessel, and multiple owners of an outboard motor or vessel who hold their interest as joint tenants with right of survivorship or as tenants by the entirety, on application and payment of the fee required for an original certificate of title, may request the director of revenue to issue a certificate of title for the outboard motor or vessel in beneficiary form which includes a directive to the director of revenue to transfer the certificate of title on death of the sole owner or on death of all multiple owners to one beneficiary or to two or more beneficiaries as joint tenants with right of survivorship or as tenants by the entirety named on the face of the certificate.

2. A certificate of title in beneficiary form may not be issued to persons who hold their interest in an outboard motor or vessel as tenants in common.

3. A certificate of title issued in beneficiary form shall include after the name of the owner, or after the names of multiple owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

4. (1) During the lifetime of a sole owner [and during the lifetime of all multiple owners] **or prior to the death of the last surviving multiple owner**, the signature or consent of the beneficiary or beneficiaries shall not be required for any transaction relating to the outboard motor or vessel for which a certificate of title in beneficiary form has been issued.

(2) A certificate of title in beneficiary form may be revoked or the beneficiary or beneficiaries changed at any time before the death of the sole owner or **the last** surviving multiple owner only by the following methods:

(a) By a sale of the outboard motor or vessel with proper assignment and delivery of the certificate of title to another person; or

(b) By surrender of the outstanding certificate of title and filing an application to reissue the certificate of title with no designation of a beneficiary or with the designation of a different beneficiary or beneficiaries with the director of revenue in proper form and accompanied by the payment of the fee for an original certificate of title.

(3) The beneficiary's or beneficiaries' interest in the outboard motor or vessel at death of the owner or surviving owner shall be subject to any contract of sale, assignment of ownership or security interest to which the owner or owners of the outboard motor or vessel were subject during their lifetime.

(4) The designation of a beneficiary or beneficiaries in a certificate of title issued in beneficiary form may not be changed or revoked by a will, any other instrument, or a change in circumstances, or otherwise be changed or revoked except as provided by subdivision (2) of this subsection.

5. (1) On proof of death of one of the owners of two or more multiple owners, or of a sole owner, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the outboard motor or vessel to the surviving owner or owners or, if none, to the surviving beneficiary or beneficiaries, subject to any outstanding security interest; and the current valid certificate of number shall be so transferred. **If the surviving beneficiary or beneficiaries request of the director of revenue, the director may allow the beneficiary or beneficiaries to make one assignment of title.**

(2) The director of revenue may rely on a death certificate or record or report that constitutes prima facie proof or evidence of death under subdivisions (1) and (2) of section 472.290, RSMo.

(3) The transfer of an outboard motor or vessel at death pursuant to this section is effective by reason of sections 301.675 to 301.682, RSMo, and sections 306.455 to 306.465, and is not to be considered testamentary, or to be subject to the requirements of section 473.087, RSMo, or section 474.320, RSMo.

362.600. RECIPROCAL CORPORATE FIDUCIARY POWERS — CERTIFICATES OF RECIPROCITY.— 1. The term "foreign corporation", as used in this section, shall mean:

(1) Any bank or other corporation now or hereafter organized under the laws of any state of the United States other than Missouri; and

(2) Any national banking association having its principal place of business in any state of the United States other than Missouri.

2. Except as provided in subsection 5 of this section, any foreign corporation may act in this state as trustee, executor, administrator, guardian, or in any other like fiduciary capacity, without the necessity of complying with any law of this state relating to the licensing of foreign banking corporations by the director of finance or relating to the qualifications of foreign corporations to do business in this state, and notwithstanding any prohibition, limitation or restriction contained in any other law of this state, provided only that:

(1) The foreign corporation is authorized to act in this fiduciary capacity or capacities in the state in which it is incorporated, or, if the foreign corporation be a national banking association, in which it has its principal place of business; and

(2) Any bank or other corporation organized under the laws of this state or a national banking association having its principal place of business in this state may act in these fiduciary capacities in that state without further showing or qualification, other than that it is authorized to act in these fiduciary capacities in this state and compliance with any law of that state concerning service of process:

(a) Which may require the appointment of an official or other person for the receipt of process; or

(b) Which contains provisions to the effect that any bank or other corporation, which is not incorporated under the laws of that state, or if a national bank then which does not have its principal place of business in that state, acting in that state in a fiduciary capacity pursuant to provisions of law making it eligible to do so, shall be deemed to have appointed an official of that state to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect

of which the corporation has acted or is acting in that state in this fiduciary capacity, and that the acceptance of or engagement in that state in any acts in this fiduciary capacity shall be signification of its agreement that the process against it, which is so served, shall be of the same legal force and validity as though served upon it personally, or which contains any substantially similar provisions.

Any foreign corporation eligible to act in any fiduciary capacity in this state pursuant to the provisions of this section may so act whether or not a resident of this state be acting with it in this capacity, may use its corporate name in connection with such activity in this state, and may be appointed to act in this fiduciary capacity by any court having jurisdiction in the premises, all notwithstanding any provision of law to the contrary. Nothing in this section contained shall be construed to prohibit or make unlawful any activity in this state by a bank or other corporation which is not incorporated under the laws of this state, or if a national bank then which does not have its principal place of business in this state, which would be lawful in the absence of this section.

3. Except as provided in subsection 5 of this section, prior to the time when any foreign corporation acts pursuant to the authority of this section in any fiduciary capacity or capacities in this state, the foreign corporation shall file with the director of finance a written application for a certificate of reciprocity and the director of finance shall issue the certificate to the foreign corporation. The application shall state:

- (1) The correct corporate name of the foreign corporation;
- (2) The name of the state under the laws of which it is incorporated, or if the foreign corporation is a national banking association shall state that fact;
- (3) The address of its principal business office;
- (4) In what fiduciary capacity or capacities it desires to act, in the state of Missouri;
- (5) That it is authorized to act in a similar fiduciary capacity or capacities in the state in which it is incorporated, or, if it is a national banking association, in which it has its principal place of business;

(6) That the application shall constitute the irrevocable appointment of the director of finance of Missouri as its true and lawful attorney to receive service of all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the foreign corporation may act in this state in the fiduciary capacity pursuant to the certificate of reciprocity applied for;

(7) Unless the applicant is subject to the jurisdiction of the Office of Thrift Supervision, that the applicant has provided with the application a fiduciary bond in the amount of one million dollars for the benefit of the director of the division of finance in a format approved by the director of the division of finance.

The application shall be verified by an officer of the foreign corporation, and there shall be filed with it such certificates of public officials and copies of documents certified by public officials as may be necessary to show that the foreign corporation is authorized to act in a fiduciary capacity or capacities similar to those in which it desires to act in the state of Missouri, in the state in which it is incorporated, or, if it is a national banking association in which it has its principal place of business. The director of finance shall, thereupon, if the foreign corporation is one which may act in the fiduciary capacity or capacities as provided in subsection 2 of this section, issue to the corporation a certificate of reciprocity, retaining a duplicate thereof together with the application and accompanying documents in his or her office. The certificate of reciprocity shall recite and certify that the foreign corporation is eligible to act in this state pursuant to this section and shall recite the fiduciary capacity or capacities in which the foreign corporation is eligible so to act.

4. A certificate of reciprocity issued to any foreign corporation shall remain in effect until the foreign corporation shall cease to be entitled under subsection 2 of this section to act in this state in the fiduciary capacity or capacities covered by the certificate, and thereafter until revoked by the director of finance. If at any time the foreign corporation shall cease to be entitled under

subsection 2 of this section to act in this state in the fiduciary capacity or capacities covered by the certificate, the director of finance shall revoke the certificate and give written notice of the revocation to the foreign corporation. No revocation of any certificate of reciprocity shall affect the right of the foreign corporation to continue to act in this state in a fiduciary capacity in estates or matters in which it has theretofore begun to act in a fiduciary capacity pursuant to the certificate.

5. A foreign corporation shall not establish or maintain in this state a place of business, branch office or agency for the conduct in this state of business as a fiduciary unless:

(1) The foreign corporation is under the control of a Missouri bank or a Missouri bank holding company, as these terms are defined in section 362.925, and the foreign corporation has complied with the requirements relating to the qualifications of foreign corporations to do business in this state;

(2) The foreign corporation is a bank, trust company or national banking association in good standing that possesses fiduciary powers from its chartering authority and is the surviving corporation to a merger or consolidation with a national banking association located in Missouri or a Missouri bank or trust company. The provisions of this subdivision are enacted to implement subsection 2 of this section and section 362.610, and the provisions of Title 12, U.S.C. 36(f)(2) of the National Bank Act; or

(3) The foreign corporation is a state-chartered bank, savings and loan association, trust company or national banking association in good standing that possesses fiduciary powers and has received a certificate of reciprocity, in which case it may only open a trust representative office in Missouri which is not otherwise a branch of such foreign corporation, provided a bank, savings and loan association or trust company chartered under the laws of Missouri and a national bank with its principal location in Missouri, all with fiduciary powers, are permitted to open and operate a trust representative office under the same or less restrictive conditions in the state in which the foreign corporation is organized or has its principal office.

6. A foreign corporation, insofar as it acts in a fiduciary capacity in this state pursuant to the provisions of this section, shall not be deemed to be transacting business in this state, if the foreign corporation does not establish or maintain in this state a place of business, branch office, or agency for the conduct in this state of business as a fiduciary.

7. Every foreign corporation to which a certificate of reciprocity shall have been issued shall be deemed to have appointed the director of finance to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it relating to or growing out of any trust, estate or matter in respect of which the foreign corporation acts in this state in any fiduciary capacity pursuant to the certificate of reciprocity. Service of the process shall be made by delivering a copy of the summons or other process, with a copy of the petition when service of the copy is required by law, together with a remittance of one dollar (to be taxed as costs in the action or proceeding), to the director of finance or to any person in his or her office authorized by him to receive the service. The director of finance shall immediately forward the process, together with the copy of the petition, if any, to the foreign corporation, by registered mail, addressed to it at the address on file with the director, or if there be none on file then at its last known address. The director of finance shall keep a permanent record in his or her office showing for all process served, the style of the action or proceeding, the court in which it was brought, the name and title of the officer serving the process, the day and hour of service, and the day of mailing by registered mail to the foreign corporation and the address to which mailed. In case the process is issued by an associate circuit judge, the same may be directed to and served by any officer authorized to serve process in the city or county where the director of finance shall have his or her office, at least fifteen days before the return thereof.

456.001-101. SHORT TITLE. — Sections 456.1-101 to 456.11-1106 shall be known and may be cited as the "Missouri Uniform Trust Code".

456.001-102. SCOPE. — Sections 456.1-101 to 456.11-1106 apply to express trusts, charitable or noncharitable, testamentary or inter vivos, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust. Sections 456.1-101 to 456.11-1106 do not apply to any trust created by the inherent power of the court pursuant to chapter 460, RSMo.

456.001-103. DEFINITIONS. — In sections 456.1-101 to 456.11-1106:

- (1) "Action," with respect to an act of a trustee, includes a failure to act.
- (2) "Beneficiary" means a person that:
 - (a) has a present or future beneficial interest in a trust, vested or contingent; or
 - (b) in a capacity other than that of trustee, holds a power of appointment over trust property.
- (3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in subsection 1 of section 456.4-405.
- (4) "Conservator" means a person described in subdivision (3) of section 475.010, RSMo. This term does not include a conservator ad litem.
- (5) "Conservator ad litem" means a person appointed by the court pursuant to the provisions of section 475.097, RSMo.
- (6) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.
- (7) "Financial institution" means a non-foreign bank, savings and loan or trust company chartered, regulated and supervised by the Missouri division of finance, the office of the comptroller of the currency, the office of thrift supervision, the National Credit Union Administration, or the Missouri division of credit union supervision. The term "non-foreign bank" shall mean a bank that is not a foreign bank within the meaning of subdivision (1) of section 361.005, RSMo.
- (8) "Guardian" means a person described in subdivision (6) of section 475.010, RSMo. The term does not include a guardian ad litem.
- (9) "Interested persons" include beneficiaries and any others having a property right in or claim against a trust estate which may be affected by a judicial proceeding. It also includes fiduciaries and other persons representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.
- (10) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.
- (11) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as in effect on January 1, 2005 or as later amended.
- (12) "Jurisdiction," with respect to a geographic area, includes a State or country.
- (13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.
- (14) "Permissible distributee" means a beneficiary who is currently eligible to receive distributions of trust income or principal, whether mandatory or discretionary.
- (15) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.
- (16) "Principal place of administration" of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business, unless otherwise designated by the terms of the trust as provided in section 456.1-108. In the case of cotrustees, the principal place of administration is, in the following order of priority:

(a) The usual place of business of the corporate trustee if there is but one corporate cotrustee;

(b) The usual place of business or residence of the trustee who is a professional fiduciary if there is but one such trustee and no corporate cotrustee; or

(c) The usual place of business or residence of any of the cotrustees.

(17) "Professional fiduciary" means an individual who represents himself or herself to the public as having specialized training, experience or skills in the administration of trusts.

(18) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

(19) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(a) is a permissible distributee;

(b) would be a permissible distributee if the interests of the permissible distributees described in paragraph (a) of this subdivision terminated on that date; or

(c) would be a permissible distributee if the trust terminated on that date.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(22) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion pursuant to the terms of the trust.

(23) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic sound, symbol, or process.

(24) "Spendthrift provision" means a term of a trust which restrains either the voluntary or involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's interest.

(25) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a State.

(26) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

(27) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(28) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

456.001-104. KNOWLEDGE. — 1. Subject to subsection 2 of this section, a person has knowledge of a fact if the person:

(1) has actual knowledge of it;

(2) has received a notice or notification of it; or

(3) from all the facts and circumstances known to the person at the time in question, has reason to know it.

2. An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the

employee's attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter involving the trust would be materially affected by the information.

456.001-105. DEFAULT AND MANDATORY RULES. — 1. Except as otherwise provided in the terms of the trust, sections 456.1-101 to 456.11-1106 governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

2. The terms of a trust prevail over any provision of sections 456.1-101 to 456.11-1106 except:

- (1) the requirements for creating a trust;
- (2) the duty of a trustee to act in good faith and in accordance with the purposes of the trust;
- (3) the requirement that a trust and its terms be for the benefit of its beneficiaries;
- (4) the power of the court to modify or terminate a trust under section 456.4-410, subsection 3 of section 456.4-411B, and sections 456.4-412 to 456.4-416;
- (5) the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in sections 456.5-501 to 456.5-507;
- (6) the power of the court under section 456.7-702 to require, dispense with, or modify or terminate a bond;
- (7) the power of the court under subsection 2 of section 456.7-708 to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high;
- (8) the duty to notify the permissible distributees of an irrevocable trust who have attained twenty-one years of age of the existence of the trust and of their rights to request trustee's reports and other information reasonably related to the administration of the trust;
- (9) the duty to respond to the request of a qualified beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust;
- (10) the effect of an exculpatory term under section 456.10-1008;
- (11) the rights under sections 456.10-1010 to 456.10-1013 of a person other than a trustee or beneficiary;
- (12) periods of limitation for commencing a judicial proceeding;
- (13) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and
- (14) the venue for a judicial proceeding as provided in section 456.2-204.

456.001-106. COMMON LAW OF TRUSTS — PRINCIPLES OF EQUITY. — The common law of trusts and principles of equity supplement sections 456.1-101 to 456.11-1106, except to the extent modified by sections 456.1-101 to 456.11-1106 or another statute of this state.

456.001-107. GOVERNING LAW. — The meaning and effect of the terms of a trust are determined by:

- (1) the law of the jurisdiction designated in the terms unless the designation of that jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue; or
- (2) in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

456.001-108. PRINCIPAL PLACE OF ADMINISTRATION. — 1. Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:

(1) a trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or

(2) all or part of the administration occurs in the designated jurisdiction.

2. Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee may transfer the trust's principal place of administration to another State or to a jurisdiction outside of the United States that is appropriate to the trust's purposes, its administration, and the interests of the beneficiaries.

3. The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than sixty days before initiating the transfer. The notice of proposed transfer must include:

(1) the name of the jurisdiction to which the principal place of administration is to be transferred;

(2) the address and telephone number at the new location at which the trustee can be contacted;

(3) an explanation of the reasons for the proposed transfer;

(4) the date on which the proposed transfer is anticipated to occur; and

(5) the date, not less than sixty days after the giving of the notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.

4. The authority of a trustee under this section to transfer a trust's principal place of administration without an order of a court terminates if a qualified beneficiary notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

5. In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed pursuant to section 456.7-704.

456.001-109. METHODS AND WAIVER OF NOTICE. — 1. Notice to a person under sections 456.1-101 to 456.11-1106 or the sending of a document to a person under sections 456.1-101 to 456.11-1106 must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, delivery to the person's last known place of residence or place of business, or a properly directed electronic message.

2. Notice otherwise required under sections 456.1-101 to 456.11-1106 or a document otherwise required to be sent under sections 456.1-101 to 456.11-1106 need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

3. Notice under sections 456.1-101 to 456.11-1106 or the sending of a document under sections 456.1-101 to 456.11-1106 may be waived by the person to be notified or sent the document.

4. Notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure.

456.001-110. OTHERS TREATED AS QUALIFIED BENEFICIARIES. — 1. A specified charitable organization or a person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in sections 456.4-408 or 456.4-409 has the rights of a qualified beneficiary under sections 456.1-101 to 456.11-1106.

2. Except with respect to section 456.4-411B, the attorney general of this state has the rights of a qualified beneficiary with respect to an interest in a charitable trust having its principal place of administration in this state if:

(1) a specified charitable organization is not entitled to a distribution from such interest; and

(2) distributions from the interest are payable in a manner that, if payable to an identifiable charitable entity, would qualify that entity as a specified charitable organization.

3. In this section a "specified charitable organization" means an identifiable charitable entity that, on the date that entity's qualification is determined:

(a) is a permissible distributee;

(b) would be a permissible distributee if the interests of the permissible distributees terminated on that date; or

(c) would be a permissible distributee if the trust terminated on that date.

4. No provision of this section shall limit the authority of the attorney general of this state to supervise and control charitable organizations.

456.001-111. NONJUDICIAL SETTLEMENT AGREEMENTS. — 1. In this section, "interested persons" means persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by the court.

2. Except as otherwise provided in subsection 3 and 6 of this section, interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

3. A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by the court under sections 456.1-101 to 456.11-1106 or other applicable law.

4. Matters that may be resolved by a nonjudicial settlement agreement include:

(1) the interpretation or construction of the terms of the trust;

(2) the approval of a trustee's report or accounting;

(3) direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;

(4) the resignation or appointment of a trustee and the determination of a trustee's compensation;

(5) transfer of a trust's principal place of administration; and

(6) liability of a trustee for an action relating to the trust.

5. Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in sections 456.3-301 to 456.3-305 was adequate, and to determine whether the agreement contains terms and conditions the court could have properly approved.

6. A nonjudicial settlement agreement may not be used to terminate or modify a trust for the reasons that a court could terminate or modify a trust as set forth in subsection 1 of section 456.4-411B.

456.001-112. RULES OF CONSTRUCTION. — 1. If a settlor's marriage is dissolved or annulled, any beneficial terms of a trust in favor of the settlor's former spouse or any fiduciary appointment of the settlor's former spouse is revoked on the date the marriage is dissolved or annulled, whether or not the terms of the trust refer to marital status. The terms of the trust shall be given effect as if the former spouse had died immediately before the date the dissolution or annulment became final. This subsection shall also apply to any beneficial interest or fiduciary appointment in favor of a relative of the settlor's former spouse as if such relative were the former spouse.

2. Subsection 1 of this section does not apply to the terms of a trust that provide any beneficial interest or fiduciary appointment for a former spouse or a relative of a former spouse that was created after the marriage was dissolved or annulled, or that expressly states that marriage dissolution or annulment shall not affect the designation of a former spouse or relative of a former spouse as a beneficiary or a fiduciary of the trust.

3. A court may order or the settlor and the spouse may agree before, during, or after the marriage in a binding contract or settlement agreement that Subsection 1 of this section does not apply to a beneficial interest or fiduciary appointment.

4. Any terms of a trust revoked solely by this section are revived by the settlor's remarriage to the former spouse or by a nullification of the marriage dissolution or annulment.

5. In this section, "a relative of the settlor's former spouse" means an individual who is related to the settlor's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the settlor by blood, adoption or affinity.

456.002-201. ROLE OF COURT IN ADMINISTRATION OF TRUST. — 1. The court may intervene in the administration of a trust to the extent its jurisdiction is invoked by an interested person or as provided by law.

2. A trust is not subject to continuing judicial supervision unless ordered by the court.

3. A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including a request for instructions and an action to declare rights.

456.002-202. JURISDICTION OVER TRUSTEE AND BENEFICIARY. — 1. By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration to this state, the trustee submits personally to the jurisdiction of the courts of this State regarding the administration of the trust during any period that the principal place of administration is located in this state.

2. With respect to their interests in the trust, the beneficiaries of a trust having its principal place of administration in this state are subject to the jurisdiction of the courts of this state regarding any proceeding involving the administration of the trust. By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this state regarding any proceeding involving the administration of the trust.

3. A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including, but not limited to a proceeding to:

- (1) request instructions or declare rights;
 - (2) approve a nonjudicial settlement;
 - (3) interpret or construe the terms of the trust;
 - (4) determine the validity of a trust or of any of its terms;
 - (5) approve a trustee's report or accounting or compel a trustee to report or account;
 - (6) direct a trustee to refrain from performing a particular act or grant to a trustee any necessary or desirable power;
 - (7) review the actions of a trustee, including the exercise of a discretionary power;
 - (8) accept the resignation of a trustee;
 - (9) appoint or remove a trustee;
 - (10) determine a trustee's compensation;
 - (11) determine the liability of a trustee for an action relating to the trust and compel redress of a breach of trust by any available remedy;
 - (12) modify or terminate a trust;
 - (13) combine trusts or divide a trust;
 - (14) determine liability of a trust for debts of a beneficiary and living settlor;
 - (15) approve employment and compensation of agents;
 - (16) determine the propriety of investments or of principal and income allocations;
 - (17) ascertain the identity of trust beneficiaries or the respective beneficial interests of trust beneficiaries;
 - (18) release of trust registration or change of the trust's principal place of administration;
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- (19) determine the timing and quantity of distributions and dispositions of assets;
 - (20) determine the validity and effect of alienations by beneficiaries, by exercise of powers of appointment or otherwise; or
 - (21) appoint a representative for a beneficiary.
4. This section does not preclude other methods of obtaining jurisdiction over a trustee, beneficiary, or other person receiving property from the trust.

456.002-204. VENUE. — 1. Venue for judicial proceedings involving the internal affairs of a trust shall be:

- (1) For a trust then registered in this State, in the probate division of the circuit court where the trust is registered; or
- (2) For a trust not then registered in this State, in the probate division of the circuit court where the trust could properly be registered; or
- (3) For a trust not then registered in this State and which cannot properly be registered in this State, in accordance with the rules of civil procedure.

2. Where a judicial proceeding under this chapter could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.

3. If proceedings concerning the same trust are commenced in more than one court of this State, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided, and if the court in which the proceeding was first commenced determines that venue is properly in another court, it shall transfer the proceeding to the other court.

4. If a court finds that in the interest of justice a proceeding or a file should be located in another court of this State, the court making the finding may transfer the proceeding or file to the other court.

456.003-301. REPRESENTATION, BASIC EFFECT. — 1. Notice to a person who may represent and bind another person under sections 456.3-301 to 456.3-305 has the same effect as if notice were given directly to the other person.

2. The consent of a person who may represent and bind another person under sections 456.3-301 to 456.3-305 is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

3. Except as otherwise provided in sections 456.4-411A and 456.6-602, a person who under sections 456.3-301 to 456.3-305 may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

456.003-302. REPRESENTATION BY HOLDER OF GENERAL TESTAMENTARY POWER OF APPOINTMENT. — The holder of a testamentary power of appointment may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

In this section "testamentary power of appointment" means a testamentary power of appointment exercisable without the consent of the creator of the power or person holding an adverse interest in favor of:

- (1) a class of appointees that includes the holder, the holder's estate, the holder's creditors, or the creditors of the holder's estate; or
- (2) all persons other than the holder, the holder's estate, the holder's creditor's, or the creditors of the holder's estate.

456.003-303. REPRESENTATION BY FIDUCIARIES AND PARENTS. — To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

- (1) a conservator may represent and bind the estate that the conservator controls;
- (2) a conservator ad litem may represent and bind the ward with respect to a particular question or dispute over which a conservator does not have authority;
- (3) a guardian may represent and bind the ward with respect to a particular question or dispute if a conservator or conservator ad litem is not authorized to act with respect to that particular question or dispute;
- (4) a parent may represent and bind the parent's minor or unborn child if a conservator, conservator ad litem, or guardian for the child has not been appointed;
- (5) an agent having authority to act with respect to the particular question or dispute may represent and bind the principal;
- (6) a trustee may represent and bind the beneficiaries of the trust; and
- (7) a personal representative of a decedent's estate may represent and bind persons interested in the estate.

456.003-304. REPRESENTATION BY PERSON HAVING SUBSTANTIALLY IDENTICAL INTEREST. — Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented.

456.003-305. APPOINTMENT OF REPRESENTATIVE. — 1. If the court determines that an interest is not represented under sections 456.3-301 to 456.3-305 or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown. A representative may be appointed to represent several persons or interests.

2. A representative may act on behalf of the individual represented with respect to any matter arising under sections 456.1-101 to 456.11-1106, whether or not a judicial proceeding concerning the trust is pending.

3. In making decisions, a representative may consider general benefit accruing to the living members of the individual's family.

456.004-401. METHODS OF CREATING TRUST. — A trust may be created by:

- (1) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;
- (2) declaration by the owner of property that the owner holds identifiable property as trustee;
- (3) exercise of a power of appointment in favor of a trustee; or
- (4) a court under section 475.092, 475.093, or 511.030, RSMo.

456.004-402. REQUIREMENTS FOR CREATION. — 1. Other than for a trust created by section 475.092, 475.093, or 511.030, RSMo, a trust is created only if:

- (1) the settlor has capacity to create a trust;
 - (2) the settlor indicates an intention to create the trust;
 - (3) the trust has a definite beneficiary or is:
 - (a) a charitable trust;
 - (b) a trust for the care of an animal, as provided in section 456.4-408; or
 - (c) a trust for a noncharitable purpose, as provided in section 456.4-409;
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- (4) the trustee has duties to perform; and
- (5) the same person is not the sole trustee and sole beneficiary.

2. A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

3. A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

456.004-403. TRUSTS CREATED IN OTHER JURISDICTIONS. — A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:

- (1) the settlor was domiciled, had a place of abode, or was a national;
- (2) a trustee was domiciled or had a place of business; or
- (3) any trust property was located.

456.004-404. TRUST PURPOSES. — A trust may be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve. A trust and its terms must be for the benefit of its beneficiaries.

456.004-405. CHARITABLE PURPOSES—ENFORCEMENT. — 1. A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.

2. If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection must be consistent with the settlor's intention to the extent it can be ascertained.

3. The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust.

456.004-406. CREATION OF TRUST INDUCED BY FRAUD, DURESS, OR UNDUE INFLUENCE. — A trust is void to the extent its creation was induced by fraud, duress, or undue influence.

456.004-407. EVIDENCE OF ORAL TRUST. — 1. Except as provided in subsection 2 of this section, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear and convincing evidence.

2. Other than for a conveyance by which a trust may arise or result by the implication or construction of law, all declarations or creations of trust of any lands, tenements or hereditaments shall be manifested and proved by some writing signed by the party who is, or shall be, by law, enabled to declare such trusts, or by the party's last will, in writing, or else they shall be void.

456.004-408. TRUST FOR CARE OF ANIMAL. — 1. A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal.

2. A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.

3. Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

456.004-409. NONCHARITABLE TRUST WITHOUT ASCERTAINABLE BENEFICIARY. — Except as otherwise provided in section 456.4-408 or by another statute, the following rules apply:

(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than twenty-one years.

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court.

(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

456.004-410. MODIFICATION OR TERMINATION OF TRUST — PROCEEDINGS FOR APPROVAL OR DISAPPROVAL. — 1. In addition to the methods of termination prescribed by sections 456.4-411A to 456.4-414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

2. A proceeding to approve or disapprove a proposed modification or termination under sections 456.4-411A to 456.4-416, or trust combination or division under section 456.4-417, may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under section 456.4-411A may be commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to modify the trust under section 456.4-413.

456.004-411A. MODIFICATION OR TERMINATION OF NONCHARITABLE IRREVOCABLE TRUST BY CONSENT. — 1. A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, without court approval, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's termination or modification may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's conservator ad litem with the approval of the court if an agent is not so authorized and a conservator has not been appointed.

2. Upon termination of a trust under subsection 1 of this section, the trustee shall distribute the trust property as agreed by the beneficiaries.

3. If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection 1 of this section, the modification or termination may be approved by the court if the court is satisfied that:

(1) if all of the beneficiaries had consented, the trust could have been modified or terminated under subsection 1 of this section; and

(2) the interests of a beneficiary who does not consent will be adequately protected.

456.004-411B. MODIFICATION OR TERMINATION OF NONCHARITABLE IRREVOCABLE TRUST BY CONSENT. — 1. When all of the adult beneficiaries having the capacity to contract consent, the court may, upon finding that the interest of any nonconsenting beneficiary will be adequately protected, modify the terms of a noncharitable irrevocable trust so as to reduce or eliminate the interests of some beneficiaries and increase those of others, change the times or amounts of payments and distributions to beneficiaries, or provide for termination of the trust at a time earlier or later than that specified by its terms. The court may at any time upon its own motion appoint a representative pursuant to section 456.3-305 to represent a nonconsenting beneficiary. The court shall appoint such a representative upon the motion of any party, unless the court determines such an appointment is not appropriate under the circumstances.

2. Upon termination of a trust under subsection 1 of this section, the trustee shall distribute the trust property as directed by the court.

3. If a trust cannot be terminated or modified under subsection 1 of this section because not all adult beneficiaries having capacity to contract consent or the terms of the trust prevent such modification or termination, the modification or termination may be approved by the court if the court is satisfied that the interests of a beneficiary, other than the settlor, who does not consent will be adequately protected, modification or termination will benefit a living settlor who is also a beneficiary, and:

(1) in the case of a termination, the party seeking termination establishes that continuance of the trust is not necessary to achieve any material purpose of the trust; or

(2) in the case of a modification, the party seeking modification establishes that the modification is not inconsistent with a material purpose of the trust, and the modification is not specifically prohibited by the terms of the trust.

4. This section shall apply to trusts created on or after January 1, 2005. The provisions of section 456.590 shall apply to all trusts created prior to January 1, 2005.

456.004-412. MODIFICATION OR TERMINATION BECAUSE OF UNANTICIPATED CIRCUMSTANCES OR INABILITY TO ADMINISTER TRUST EFFECTIVELY. — 1. The court may modify the dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

2. The court may modify the management or administrative terms of a trust if modification will further the purposes of the trust.

3. Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

456.004-413. CY PRES. — 1. Except as otherwise provided in subsection 2 of this section, if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:

(1) the trust does not fail, in whole or in part;

(2) the trust property does not revert to the settlor or the settlor's successors in interest; and

(3) the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.

2. A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under subsection 1 of this section to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

(1) the trust property is to revert to the settlor and the settlor is still living; or

(2) fewer than twenty-one years have elapsed since the date of the trust's creation.

456.004-414. MODIFICATION OR TERMINATION OF UNECONOMIC TRUST. — 1. After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than one hundred thousand dollars may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

2. The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

3. Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

4. This section does not apply to an easement for conservation or preservation.

456.004-415. REFORMATION TO CORRECT MISTAKES. — The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proved by clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

456.004-416. MODIFICATION TO ACHIEVE SETTLOR'S TAX OBJECTIVES. — To achieve the settlor's tax objectives, the court may modify the terms of a trust in a manner that is not contrary to the settlor's probable intention. The court may provide that the modification has retroactive effect.

456.004-417. COMBINATION AND DIVISION OF TRUSTS. — After notice to the qualified beneficiaries, a trustee may combine two or more trusts into a single trust or divide a trust into two or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust. The terms of each new trust created by a division under this section do not have to be identical if the interest of each beneficiary is substantially the same under the terms of the trust prior to its division and the combined terms of all trusts after the division. Two or more trusts may be combined into a single trust if the interests of each beneficiary in the trust resulting from the combination are substantially the same as the combined interests of the beneficiary in the trusts prior to the combination. The trustee shall determine the terms controlling any trust after its combination as authorized by this section.

456.005-501. RIGHTS OF BENEFICIARY'S CREDITOR OR ASSIGNEE. — To the extent a beneficiary's interest is not protected by a spendthrift provision, an assignee or a judgment creditor of the beneficiary may, without court order, reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances.

456.005-502. SPENDTHRIFT PROVISION. — 1. A spendthrift provision is valid if it restrains either the voluntary or involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's interest.

2. A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust," or words of similar import, is sufficient to restrain both voluntary and involuntary transfers of the beneficiary's interest.

3. A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in sections 456.5-501 to 456.5-507, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

456.005-503. EXCEPTIONS TO SPENDTHRIFT PROVISION. — 1. In this section,

(1) "Child" includes any person for whom an order or judgment for child support has been entered in this or another State, and

(2) "Judgment" means a judgment which may be executed in this State.

2. Even if a trust contains a spendthrift provision, a beneficiary's child, spouse, or former spouse who has a judgment against the beneficiary for support or maintenance, or a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust, may obtain from a court an order attaching present or future trust income. If there is more than one permissible distributee, the court may grant relief as is equitable under the circumstances.

3. A spendthrift provision is unenforceable against a claim of this State or the United States to the extent a statute of this state or federal law so provides.

456.005-504. DISCRETIONARY TRUSTS — EFFECT OF STANDARD. — 1. Except as otherwise provided in section 456.5-503, whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

(1) the discretion is expressed in the form of a standard of distribution; or

(2) the trustee has abused the discretion.

2. This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

456.005-505. CREDITOR'S CLAIM AGAINST SETTLOR. — 1. Whether or not the terms of a trust contain a spendthrift provision, during the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

2. With respect to an irrevocable trust without a spendthrift provision, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

3. With respect to an irrevocable trust with a spendthrift provision, a spendthrift provision will prevent the settlor's creditors from satisfying claims from the trust assets except:

(1) Where the conveyance of assets to the trust was fraudulent as to creditors pursuant to the provisions of Chapter 428, RSMo; or

(2) To the extent of the settlor's beneficial interest in the trust assets, if at the time the trust became irrevocable:

(a) The settlor was the sole beneficiary of either the income or principal of the trust or retained the power to amend the trust; or

(b) The settlor was one of a class of beneficiaries and retained a right to receive a specific portion of the income or principal of the trust that was determinable solely from the provisions of the trust instrument.

4. Any trustee who has a duty or power to pay the debts of a deceased settlor may publish a notice in some newspaper published in the county once a week for four consecutive weeks in substantially the following form:

To all persons interested in the estate of _____, decedent. The undersigned _____ is acting as Trustee under a trust the terms of which provide that the debts of the decedent may be paid by the Trustee(s) upon receipt of proper proof thereof. The address of the Trustee is _____.

All creditors of the decedent are noticed to present their claims to the undersigned within six (6) months from the date of the first publication of this notice or be forever barred.

Trustee

(1) If such publication is duly made by the trustee, any debts not presented to the trustee within six months from the date of the first publication of the preceding notice shall be forever barred as against the trustee and the trust property.

(2) A trustee shall not be liable to account to the decedent's personal representative under the provisions of section 461.300, RSMo, by reason of any debt barred under the provisions of this subsection.

5. For purposes of this section:

(1) during the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and

(2) upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in sections 2041(b)(2), 2514(e) or 2503(b) of the Internal Revenue Code.

6. This section shall not apply to a spendthrift trust described, defined, or established in section 456.018.

456.005-506. OVERDUE DISTRIBUTION. — Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

456.005-507. PERSONAL OBLIGATIONS OF TRUSTEE. — Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

456.006-601. CAPACITY OF SETTLOR OF REVOCABLE TRUST. — The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

456.006-602. REVOCATION OR AMENDMENT OF REVOCABLE TRUST. — 1. Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before January 1, 2005.

2. If a revocable trust is created or funded by more than one settlor:

(1) to the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses; and

(2) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution.

3. The settlor may revoke or amend a revocable trust:

(1) if the terms of the trust provide a method of amendment or revocation, by substantially complying with any method provided in the terms of the trust; or

(2) if the terms of the trust do not provide a method, by any other method manifesting clear and convincing evidence of the settlor's intent, including the terms of a later duly probated will or codicil that identify the trust being revoked or the trust terms being amended.

4. Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

5. A settlor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power.

6. A conservator of the settlor or, if no conservator has been appointed, a conservator ad litem of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservator or the conservator ad litem.

7. A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

456.006-603. SETTLOR'S POWERS — POWERS OF WITHDRAWAL. — 1. While a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

2. A settlor is presumed to have capacity for the purposes of subsection 1 of this section until either the settlor is adjudicated totally incapacitated or disabled or the trustee has received an affidavit of incapacity.

3. If a revocable trust has more than one settlor, the duties of the trustee are owed to all of the settlors having capacity to revoke the trust.

4. During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

5. In this section, an "affidavit of incapacity" means a written certificate furnished by at least one licensed medical doctor that states that the settlor lacks capacity to revoke the trust.

456.006-604. LIMITATION ON ACTION CONTESTING VALIDITY OF REVOCABLE TRUST — DISTRIBUTION OF TRUST PROPERTY. — 1. A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earliest of:

(1) two years after the settlor's death;

(2) six months after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding; or

(3) in the case of a trust that was revocable at the settlor's death that is entitled to a distribution under the settlor's will, on the date that any contest of that will is barred under the provisions of section 473.083, RSMo, provided that a copy of the trust instrument was filed with the probate division within ninety days of the first publication of notice of granting of letters on the estate of the decedent under section 473.033, RSMo.

2. For purposes of subdivision (2) of subsection 1 of this section, the trustee may provide the documentation and information set forth in that subsection to:

(1) all persons who would be entitled to notice of granting of letters on the estate of the decedent under section 473.033, RSMo; and

(2) all persons whose interests are, in the opinion of the trustee, adversely affected by the terms of the trust.

3. Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless:

(1) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or

(2) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within sixty days after the contestant sent the notification.

4. A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

456.007-701. ACCEPTING OF DECLINING TRUSTEESHIP. — 1. Except as otherwise provided in subsection 3 of this section, a person designated as trustee accepts the trusteeship:

(1) by substantially complying with a method of acceptance provided in the terms of the trust; or

(2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

2. A person designated as trustee who has not yet accepted the trusteeship may decline the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have declined the trusteeship.

3. A person designated as trustee, without accepting the trusteeship, may:

(1) act to preserve the trust property if, within a reasonable time after acting, the person sends a declination of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

(2) inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

456.007-702. TRUSTEE'S BOND. — 1. A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

2. The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

456.007-703. COTRUSTEES. — 1. Cotrustees shall act by majority decision.

2. If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

3. A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

4. If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

5. A trustee may not delegate to a cotrustee the performance of a function the settlor reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

6. Except as otherwise provided in subsection 7 of this section, a trustee who does not join in an action of another trustee is not liable for the action.

7. Each trustee shall exercise reasonable care to:

(1) prevent a cotrustee from committing a serious breach of trust; and

(2) compel a cotrustee to redress a serious breach of trust.

8. A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

456.007-704. VACANCY IN TRUSTEESHIP — APPOINTMENT OF SUCCESSOR. — 1. A vacancy in a trusteeship occurs if:

- (1) a person designated as trustee declines the trusteeship;
- (2) a person designated as trustee cannot be identified or does not exist;
- (3) a trustee resigns;
- (4) a trustee is disqualified or removed;
- (5) a trustee dies; or
- (6) a guardian or conservator is appointed for an individual serving as trustee.

2. If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

3. A vacancy in a trusteeship required to be filled must be filled in the following order of priority:

(1) by a person designated in or pursuant to the terms of the trust to act as successor trustee;

(2) by a person appointed by a majority in number of the qualified beneficiaries; or

(3) by a person appointed by the court.

4. Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

456.007-705. RESIGNATION OF TRUSTEE. — 1. A trustee may resign:

(1) upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees; or

(2) with the approval of the court.

2. In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

3. Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

456.007-706. REMOVAL OF TRUSTEE. — 1. The settlor, a cotrustee, or a qualified beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.

2. The court may remove a trustee if:

(1) the trustee has committed a serious breach of trust;

(2) lack of cooperation among cotrustees substantially impairs the administration of the trust;

(3) because of unfitness, unwillingness, or persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or

(4) the trustee has substantially and materially reduced the level of services provided to that trust and has failed to reinstate a substantially equivalent level of services within ninety days after receipt of notice by the settlor, a cotrustee, or a qualified beneficiary or removal is requested by all of the qualified beneficiaries and in either such case the party seeking removal establishes to the court that:

(a) removal of the trustee best serves the interests of all of the beneficiaries;

(b) removal of the trustee is not inconsistent with a material purpose of the trust; and

(c) a suitable cotrustee or successor trustee is available and willing to serve.

3. In an action to remove a trustee under subdivision (4) of subsection 2 of this section, the following apply:

(1) In the event that a corporation is the trustee being removed, a suitable replacement cotrustee or successor trustee shall be another corporation qualified to conduct trust business in this state.

(2) In the event that a successor trustee is not appointed under the provisions of section 456.7-704 or the court finds that all potential successor trustees are not suitable, then the court may appoint such trustee or trustees as the court finds suitable under the circumstances.

(3) With respect to a trust created under an instrument executed before January 1, 2005, the provisions of subdivision (4) of subsection 2 of this section shall not apply if the instrument contains any procedures concerning removal of any trustee.

4. Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under subsection 2 of section 456.10-1001 as may be necessary to protect the trust property or the interests of the beneficiaries.

456.007-707. DELIVERY OF PROPERTY BY FORMER TRUSTEE. — 1. Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

2. A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to it.

456.007-708. COMPENSATION OF TRUSTEE. — 1. If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances.

2. If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if:

(1) the duties of the trustee are substantially different from those contemplated when the trust was created; or

(2) the compensation specified by the terms of the trust would be unreasonably low or high.

3. For purposes of this section, reasonable compensation may include fees that take into account the administration of both income and principal whether or not the will or trust instrument contains provisions relating to compensation of the trustee.

456.007-709. REIMBURSEMENT OF EXPENSES. — 1. A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for:

(1) expenses that were properly incurred in the administration of the trust; and

(2) to the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.

2. An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

456.008-801. DUTY TO ADMINISTER TRUST. — Upon acceptance of a trusteeship, the trustee shall administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries, and in accordance with sections 456.1-101 to 456.11-1106.

456.008-802. DUTY OF LOYALTY. — 1. A trustee shall administer the trust solely in the interests of the beneficiaries.

2. Subject to the rights of persons dealing with or assisting the trustee as provided in section 456.10-1012, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

(1) the transaction was authorized by the terms of the trust;
(2) the transaction was approved by the court;
(3) the beneficiary did not commence a judicial proceeding within the time allowed by section 456.10-1005;

(4) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with section 456.10-1009; or

(5) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

3. A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

(1) the trustee's spouse;

(2) the trustee's descendants, siblings, parents, or their spouses;

(3) an agent or attorney of the trustee; or

(4) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

4. A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

5. A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

6. The following transactions are not presumed to be affected by a conflict between the trustee's personal and fiduciary interest provided that any investment made pursuant to the transaction complies with the Missouri Prudent Investor Act.

(1) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee.

(2) the placing of securities transactions by a trustee through a securities broker that is a part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee.

(3) In addition to the trustee's fees charged to the trust, the trustee, its affiliate, or associated entity may be compensated for any transaction or provision of services described in this subsection 6 or in subdivisions (4), (5), or (6) of subsection 8 of this section; provided, however, that with respect to any investment in securities of an investment company or investment trust to which the trustee or its affiliate provides investment advisory or investment management services or any services described in subdivision (5) of subsection 8 of this section, the trustee shall at least annually notify the persons entitled under section 456.8-813 to receive a copy of the trustee's annual report of the rate or method by which the compensation was determined.

7. In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

8. The following transactions, if fair to the beneficiaries, are not presumed to be affected by a conflict between personal and fiduciary interests and are not precluded by this section:

(1) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;

- (2) payment of reasonable compensation to the trustee;
- (3) a transaction between a trust and another trust, decedent's estate, or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;
- (4) a deposit of trust money in a financial institution operated by the trustee or an affiliate;
- (5) a delegation and any transaction made pursuant to the delegation from a trustee to an agent that is affiliated or associated with the trustee, provided that notice of any compensation paid pursuant to the delegation is given as provided in subdivision (3) of subsection 6 of this section; or
- (6) any loan from the trustee or its affiliate.

9. The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

456.008-803. IMPARTIALITY. — If a trust has two or more beneficiaries, the trustee shall act impartially in investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests.

456.008-804. PRUDENT ADMINISTRATION. — A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

456.008-805. COSTS OF ADMINISTRATION. — In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

456.008-806. TRUSTEE'S SKILLS. — A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, shall use those special skills or expertise.

456.008-807. DELEGATION BY TRUSTEE. — 1. A trustee may delegate to an agent duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

- (1) selecting an agent;
- (2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

2. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

3. A trustee who complies with subsection 1 of this section is not liable to the beneficiaries or to the trust for an action of the agent to whom the function was delegated.

4. By accepting a delegation of powers or duties from the trustee of a trust that is subject to the law of this State, an agent submits to the jurisdiction of the courts of this State.

456.008-808. POWERS TO DIRECT. — 1. While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms of the trust.

2. If the terms of a trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise of the power unless the attempted exercise is contrary to the terms of the trust

or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the person holding the power owes to the beneficiaries of the trust.

3. The terms of a trust may confer upon a trustee or other person a power to direct the modification or termination of the trust.

4. A person, other than a beneficiary, who holds a power to direct is presumptively a fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from breach of a fiduciary duty.

456.008-809. CONTROL AND PROTECTION OF TRUST PROPERTY. — A trustee shall take reasonable steps to take control of and protect the trust property, except that this duty does not apply to, and the trustee is not responsible for, items of tangible personal property that are property of a trust revocable by the settlor and that are not in the possession or control of the trustee.

456.008-810. RECORD KEEPING AND IDENTIFICATION OF TRUST PROPERTY. — 1. A trustee shall keep adequate records of the administration of the trust.

2. A trustee shall keep trust property separate from the trustee's own property.

3. Except as otherwise provided in subsection 4 of this section, a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

4. If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of two or more separate trusts.

456.008-811. ENFORCEMENT AND DEFENSE OF CLAIMS. — A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust.

456.008-812. COLLECTING TRUST PROPERTY. — A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust known to the trustee to have been committed by a former trustee.

456.008-813. DUTY TO INFORM AND REPORT. — 1. A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust.

2. A trustee:

(1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument;

(2) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;

(3) within sixty days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection 3 of this section; and

(4) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation. Subdivisions (2) and (3) of this subsection do not apply to a trust that became irrevocable before January 1, 2005.

3. A trustee shall send to the permissible distributees of trust income or principal, and to other beneficiaries who request it, at least annually and at the termination of the trust,

a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

4. A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

5. A trustee may charge a reasonable fee to a beneficiary for providing information under this section.

6. The request of any beneficiary for information under any provision of this section shall be with respect to a single trust that is sufficiently identified to enable the trustee to locate the records of the trust.

7. If the trustee is bound by any confidentiality restrictions with respect to an asset of a trust, any beneficiary who is eligible to receive information pursuant to this section about such asset shall agree to be bound by the confidentiality restrictions that bind the trustee before receiving such information from the trustee.

456.008-814. DISCRETIONARY POWERS — TAX SAVINGS. — 1. Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

2. Subject to subsection 4 of this section, and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

(1) a person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code;

(2) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person; and

(3) for purposes of this subsection 2 of this section, the term "trustee" shall include a person who is deemed to have any power of a trustee, whether because such person has the right to remove or replace any trustee, because a reciprocal trust or power doctrine applies, or for any other reason.

3. A power whose exercise is limited or prohibited by subsection 2 may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

4. Subsection 2 of this section does not apply to:

(1) a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in section 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code was previously allowed;

(2) any trust during any period that the trust may be revoked or amended by its settlor; or

(3) a trust if contributions to the trust qualify for the annual exclusion under section 2503(c) of the Internal Revenue Code.

456.008-815. GENERAL POWERS OF TRUSTEE. — 1. A trustee, without authorization by the court, may exercise:

- (1) powers conferred by the terms of the trust; and
- (2) except as limited by the terms of the trust:
 - (a) all powers over the trust property which an unmarried competent owner has over individually owned property;
 - (b) any other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and
 - (c) any other powers conferred by sections 456.1-101 to 456.11-1106.
2. The exercise of a power is subject to the fiduciary duties prescribed by section 456.8-801 to 456.8-814.

456.008-816. SPECIFIC POWERS OF TRUSTEE. — Without limiting the authority conferred by section 456.8-815, a trustee may:

- (1) collect trust property and accept or reject additions to the trust property from a settlor or any other person;
- (2) acquire or sell property in divided or undivided interests, for cash or on credit, at public or private sale;
- (3) exchange, partition, or otherwise change the character of trust property;
- (4) deposit trust money in an account in a financial institution;
- (5) borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;
- (6) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;
- (7) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:
 - (a) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;
 - (b) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;
 - (c) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and
 - (d) deposit the securities with a depository or other financial institution;
- (8) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;
- (9) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;
- (10) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
- (11) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
- (12) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
- (13) with respect to possible liability for violation of environmental law:
 - (a) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been

asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

(b) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

(c) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

(d) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and

(e) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;

(14) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

(15) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;

(16) exercise elections with respect to federal, state, and local taxes;

(17) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;

(18) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(19) pledge trust property to guarantee or secure loans made by others to a beneficiary;

(20) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(21) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(a) paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;

(b) paying it to the beneficiary's custodian under the Missouri Transfers to Minors Law under sections 404.005 to 404.094, RSMo, or a personal custodian under sections 404.400 to 404.650, RSMo, and, for that purpose, creating a custodianship or custodial trust;

(c) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

(d) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

(22) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(23) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(25) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers.

(26) on termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and

(27) To invest and reinvest trust assets in accordance with sections 469.900 to 469.913, RSMo; including investing and reinvesting in securities or obligations of any state or its political subdivisions, including securities or obligations that are underwritten by the trustee or an affiliate of the trustee or a syndicate in which the trustee or an affiliate of the trustee is a member which meet the standards established by the division of finance pursuant to subsection 5 of section 362.550, RSMo.

456.008-817. DISTRIBUTION UPON TERMINATION. — 1. Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within thirty days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

2. Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

3. A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent:

- (1) it was induced by improper conduct of the trustee; or
- (2) the beneficiary, at the time of the release, did not know of the beneficiary's rights or of the material facts relating to the breach.

456.010-1001. REMEDIES FOR BREACH OF TRUST. — 1. A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.

2. To remedy a breach of trust that has occurred or may occur, the court may:

- (1) compel the trustee to perform the trustee's duties;
- (2) enjoin the trustee from committing a breach of trust;
- (3) compel the trustee to redress a breach of trust by paying money, restoring property, or other means;
- (4) order a trustee to account;
- (5) appoint a special fiduciary to take possession of the trust property and administer the trust;
- (6) suspend the trustee;
- (7) remove the trustee as provided in section 456.7-706;
- (8) reduce or deny compensation to the trustee;
- (9) subject to section 456.10-1012, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds; or
- (10) order any other appropriate relief.

456.010-1002. DAMAGES FOR BREACH OF TRUST. — 1. A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of:

- (1) the amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or
- (2) the profit the trustee made by reason of the breach.

2. Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other

trustee or trustees that are also liable. A trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

456.010-1003. DAMAGES IN ABSENCE OF BREACH. — 1. A trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust.

2. Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

456.010-1004. ATTORNEY'S FEES AND COSTS. — In a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

456.010-1005. LIMITATION OF ACTION AGAINST TRUSTEE. — 1. A beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the last to occur of the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and the date the trustee informed the beneficiary of the time allowed for commencing a proceeding with respect to any potential claim adequately disclosed on the report.

2. A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.

3. If subsection 1 of this section does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within five years after the first to occur of:

- (1) the removal, resignation, or death of the trustee;
- (2) the termination of the beneficiary's interest in the trust; or
- (3) the termination of the trust.

456.010-1006. RELIANCE ON TRUST INSTRUMENT. — A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.

456.010-1007. EVENT AFFECTING ADMINISTRATION OR DISTRIBUTION. — If the happening of an event, including marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.

456.010-1008. EXCULPATION OF TRUSTEE. — 1. A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it:

- (1) relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or
- (2) was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.

2. Unless the settlor was represented by an attorney not employed by the trustee with respect to the trust containing the exculpatory term, an exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential

relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor.

456.010-1009. BENEFICIARY'S CONSENT, RELEASE, OR RATIFICATION. — A trustee is not liable to a beneficiary for breach of trust if the beneficiary, while having capacity, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

- (1) the consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or
- (2) at the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

456.010-1010. LIMITATION ON PERSONAL LIABILITY OF TRUSTEE. — 1. Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.

2. A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

3. A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.

456.010-1011. INTEREST AS GENERAL PARTNER. — 1. Except as otherwise provided in subsection 3 of this section or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed with the Secretary of State of this State.

2. Except as otherwise provided in subsection 3 of this section, a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

3. The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

4. If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

456.010-1012. PROTECTION OF PERSON DEALING WITH TRUSTEE. — 1. A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

2. A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of their exercise.

3. A person who in good faith delivers assets to a trustee need not ensure their proper application.

4. A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

5. Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

456.010-1013. CERTIFICATION OF TRUST. — 1. Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

- (1) that the trust exists and the date the trust instrument was executed;
- (2) the identity of the settlor;
- (3) the identity and address of the currently acting trustee;
- (4) the powers of the trustee;
- (5) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;
- (6) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee;
- (7) the trust's taxpayer identification number; and
- (8) the manner of taking title to trust property.

2. A certification of trust must be signed by all the trustees. A third party may require that the certification of trust be acknowledged or guaranteed.

3. A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

4. A certification of trust need not contain the dispositive terms of a trust.

5. A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

6. A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

7. A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

8. A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.

9. This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

456.011-1101. UNIFORMITY OF APPLICATION AND CONSTRUCTION. — In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

456.011-1102. ELECTRONIC RECORDS AND SIGNATURES. — Sections 456.1-101 to 456.11-1106 modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. section 7001, et seq.) but do not modify, limit, or supersede section 101(c) of that Act (15 U.S.C. section 7001(c)) or authorize electronic

delivery of any of the notices described in section 103(b) of that act (15 U.S.C. section 7003(b)).

456.011-1103. SEVERABILITY CLAUSE. — If any provision of sections 456.1-101 to 456.11-1106 or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of sections 456.1-101 to 456.11-1106 which can be given effect without the invalid provision or application, and to this end the provisions of sections 456.1-101 to 456.11-1106 are severable.

456.011-1104. EFFECTIVE DATE. — Sections 456.1-101 to 456.11-1106 take effect on January 1, 2005.

456.011-1106. APPLICATION TO EXISTING RELATIONSHIPS. — 1. Except as otherwise provided in sections 456.1-101 to 456.11-1106, on January 1, 2005:

(1) Sections 456.1-101 to 456.11-1106 apply to all trusts created before, on, or after January 1, 2005;

(2) Sections 456.1-101 to 456.11-1106 apply to all judicial proceedings concerning trusts commenced on or after January 1, 2005;

(3) Sections 456.1-101 to 456.11-1106 apply to judicial proceedings concerning trusts commenced before January 1, 2005, unless the court finds that application of a particular provision of sections 456.1-101 to 456.11-1106 would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of sections 456.1-101 to 456.11-1106 does not apply and the superseded law applies;

(4) Any rule of construction or presumption provided in sections 456.1-101 to 456.11-1106 apply to trust instruments executed before January 1, 2005, unless there is a clear indication of a contrary intent in the terms of the trust;

(5) An act done before January 1, 2005, is not affected by any provisions contained in sections 456.1-101 to 456.11-1106; and

(6) Section 456.590 shall not apply to trusts created under an instrument executed on or after January 1, 2005.

2. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before January 1, 2005, that statute continues to apply to the right even if it has been repealed or superseded.

[456.015.] 456.001. BEQUESTS OR TRANSFER TO SPOUSE, VALUATION OF. — If an instrument providing for a pecuniary bequest or transfer to or for the benefit of the spouse of the testator or transferor requires or permits the satisfaction of such bequest or transfer wholly or partly by the distribution of property valued at some date or on some basis other than its fair market value at the time of distribution, and does not require that such bequest or transfer be satisfied by the distribution of assets, including cash, having an aggregate fair market value on the date or dates of distribution amounting to no less than the amount of such bequest or transfer, then in such case, the provisions of the instrument notwithstanding, any property distributed in satisfaction of such bequest or transfer shall have an aggregate fair market value on the date of distribution fairly reflecting the distributee's proportionate share of the appreciation or depreciation in value to the date of distribution of all property then available for distribution.

2. If, in any instrument which provides for a pecuniary bequest or transfer, the personal representative or trustee is empowered to satisfy such bequest or transfer by distribution of property in kind, and the instrument is silent as to the value to be given to property distributed in kind, any property distributed in satisfaction of the bequest or transfer shall be valued at the fair market value thereof on the date of distribution.

3. The phrase "pecuniary bequest or transfer", as used in this section, means a bequest or transfer either in a stated amount or in an amount determined by the use of a formula.

4. This section shall be effective with respect to wills and revocable inter vivos trusts executed or created before or after October 13, 1969, by persons who die on or after said date, and to irrevocable inter vivos trusts which are created on or after October 13, 1969.

[456.020.] 456.003. ABSENCE OF ACTIVE DUTIES NOT TO CURTAIL POWERS OF TRUSTEE. — When the terms of an instrument creating a trust manifest intention that the trustee shall have the legal fee simple in land, the full legal ownership of an estate for years, or the absolute legal ownership of chattels personal, investment securities or choses in action, an exercise by the trustee or a successor trustee of an express or implied power of sale, mortgage, leasing, improvement or conducting any other transaction incident to the administration of the trust, shall bind the fee simple, term of years or absolute ownership notwithstanding the execution of a future interest under the trust into a legal estate or interest by the operation of the Statute of Uses, or former section [456.020] **456.003**, or a judicial doctrine imposing such execution on dry or passive trusts.

[456.030.] 456.005. LIFE INSURANCE TRUSTS. — Proceeds of life insurance policies heretofore made payable to a trustee or trustees named as beneficiary or hereafter to be named beneficiary under an inter vivos trust shall be paid directly to the trustee or trustees and held and disposed of by the trustee or trustees as provided in the trust agreement or declaration of trust in writing made and in existence on the date of death of the insured, whether or not such trust or declaration of trust is amendable or revocable or both, or whether it may have been amended, and notwithstanding the reservation of any or all rights of ownership under the insurance policy or annuity contract; subject, however, to a valid assignment of any part of the proceeds. It is not necessary to the validity of such trust agreement or declaration of trust that it be funded or have a corpus other than the right, which need not be irrevocable, of the trustee or trustees named therein to receive such proceeds as beneficiary. A policy of life insurance or annuity contract may designate as beneficiary a trustee or trustees named or to be named by will if the designation is made in accordance with the provisions of the policy or contract whether or not the will is in existence at the time of the designation.

[456.040.] 456.007. LESSOR, TRUSTEE OF DEPOSITS BY LESSEE, WHEN — EXCEPTION. — 1. Whenever any person, firm or corporation, engaged in the leasing of personal property, shall require a deposit or advance payment to be made by the lessee to bind the lessee to the performance of such contract, then such money so deposited, with any accruing interest thereon, shall, until returned or applied in accordance with the terms of such contract or agreement, continue to be the money of the person making the deposit and shall become and remain a trust fund in the possession of the person with whom such deposit shall be made, and the person, firm or corporation, receiving such deposit shall be the holder of such fund as trustee, and as the trustee as herein defined shall forthwith, and within seven days after the receipt of such trust fund, deposit the same in some bank or trust company in the county in which the cestui que trust shall reside or have his principal office or place of business, and such fund shall not be mingled with any other funds or assets of such trustee. Any person, firm or corporation receiving any money in trust, as herein defined, who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor; provided, however, that this section and section [456.050] **456.009** shall not apply to such transactions where the property used or leased is delivered to lessee at time of agreement and remains in the actual and continuous possession of lessee during the term of such agreement.

2. Subsection 1 of this section shall not apply to any lease entered into by lessors which are banks, trust companies, savings and loan associations, savings banks and credit unions, their subsidiaries and affiliates, or to any other financial institutions as defined in subdivision (4) of

section 381.410, RSMo, or to other lessors in commercial lease transactions of at least twenty-five thousand dollars.

[456.050.] 456.009. LESSOR LIABLE FOR DOUBLE AMOUNT OF DEPOSIT SO HELD IN TRUST, WHEN. — Any person, firm or corporation being a trustee, as provided in section [456.040] **456.007**, who shall violate any of the provisions thereof, shall pay to the depositor a sum of money double the amount of the deposit or advance payment, which may be recovered in any court of competent jurisdiction, together with a reasonable attorney's fee to be fixed by the court and collected as other costs in the case. Any waiver or attempt to waive the provisions of sections [456.040 and 456.050] **456.007 and 456.009** shall be void.

[456.060.] 456.011. TRUSTS FOR BENEFIT OF EMPLOYEES OR SELF-EMPLOYED PERSONS — PERPETUITIES — SUSPENSION OF ALIENATION. — A trust of real or personal property, or both, created as part of a stock bonus plan, pension plan, disability or death benefit plan, medical benefit plan, profit-sharing plan or retirement plan, for the exclusive benefit of employees or self-employed persons, to which contributions are made by an employer, or employees, or both, or by self-employed persons, for the purpose of distributing to such employees or self-employed persons the earnings or the principal, or both earnings and principal of the fund so held in trust, shall not be deemed to be invalid as violating any existing laws against perpetuities or suspension of the power of alienation of title to property; but such a trust may continue for such time as may be necessary to accomplish the purposes for which it may be created.

[456.070.] 456.013. TRUSTS FOR BENEFIT OF EMPLOYEES OR SELF-EMPLOYED PERSONS — ACCUMULATION. — The income arising from any property held in a trust created as part of a stock bonus plan, pension plan, disability or death benefit plan, medical benefit plan, profit-sharing plan or retirement plan for the exclusive benefit of employees or self-employed persons to which contributions are made by an employer or employees, or both, or by self-employed persons, for the purpose of distributing in accordance with such plan to such employees or self-employed persons the earnings or the principal or both earnings and principal of the trust fund, may be permitted to accumulate until the fund shall be sufficient to accomplish the purposes of such plan.

[456.072.] 456.015. TRUST FOR BENEFIT OF EMPLOYEES — SPENDTHRIFT TRUST, WHEN — EXEMPT FROM CERTAIN ATTACHMENTS, EXCEPTION. — A trust created as part of a stock bonus plan, nonpublic pension plan, disability or death benefit plan, profit-sharing plan, or retirement plan, for the exclusive benefit of employees to which contributions are made by an employer, or participant, or both, for the purpose of distributing to such participant the earnings or the principal, or both earnings and principal of the fund so held in trust, shall be deemed to be a spendthrift trust if the plan or trust includes a provision restraining the assignment, alienation, or other voluntary or involuntary transfer of the interest of a participant in the trust. Prior to payment or delivery thereof to such participant by the plan trustee, such an interest of the participant shall be exempt from attachment or execution under the laws of this state, and such provision restraining the assignment, alienation, or other voluntary or involuntary transfer of the interest of a participant in the trust shall preclude any creditor of the participant from satisfying a claim from the assets or property of such a plan or trust before payment or delivery of such interest to the participant by the plan trustee, provided that the interest of any such participant shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by section 414(p) of the federal Internal Revenue Code, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution.

[456.075.] 456.017. APPLICABILITY OF SECTIONS 456.060, 456.070 AND 456.072. — The provisions of sections [456.060, 456.070, and 456.072] **456.011, 456.013, and 456.015** shall apply to every trust of the kind described in such sections hereafter created or heretofore created or attempted to be created as if such sections had been effective on and after the date of the creation, or attempted creation, of each such trust.

[456.230.] 456.019. TRUSTEES OF PRIVATE FOUNDATIONS, CHARITABLE TRUSTS OR SPLIT-INTEREST TRUSTS, CERTAIN ACTS PROHIBITED. — 1. In the administration of any trust which is a "private foundation", as defined in section 509 of the United States Internal Revenue Code, a "charitable trust", as defined in section 4947(a)(1) of the United States Internal Revenue Code, or a "split-interest trust", as defined in section 4947(a)(2) of the United States Internal Revenue Code, the following acts shall be prohibited:

(1) Engaging in any act of "self-dealing", as defined in section 4941(d) of the United States Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4941(a) of the United States Internal Revenue Code;

(2) Retaining any "excess business holdings", as defined in section 4943(c) of the United States Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4943(a) of the United States Internal Revenue Code;

(3) Making any investments which would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of section 4944 of the United States Internal Revenue Code, so as to give rise to any liability for the tax imposed by section 4944(a) of the United States Internal Revenue Code; and

(4) Making any "taxable expenditures", as defined in section 4945(d) of the United States Internal Revenue Code, which would give rise to any liability for the tax imposed by section 4945(a) of the United States Internal Revenue Code; provided, however, that this section shall not apply either to those split-interest trusts or to amounts thereof which are not subject to the prohibitions applicable to private foundations by reason of the provisions of section 4947 of the United States Internal Revenue Code.

2. In the administration of any trust which is a "private foundation", as defined in section 509 of the United States Internal Revenue Code, or which is a "charitable trust", as defined in section 4947(a)(1) of the United States Internal Revenue Code, there shall be distributed, for the purposes specified in the trust instrument, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the United States Internal Revenue Code.

3. The provisions of subsections 1 and 2 of this section shall not apply to any trust to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the instrument governing such trust and that the same may not properly be changed to conform to such sections. The trustee shall not be held liable to anyone for any payments made under subsection 2 prior to such determination.

4. Nothing in this section shall impair the rights and powers of the courts or the attorney general of this state with respect to any trust.

5. All references to sections of the United States Internal Revenue Code shall be to such law as of June 14, 1971.

[456.232.] 456.021. ADDITION TO TRUSTS. — A devise or other transfer, the validity of which is determinable by the law of this state, may be made by a will or other instrument of transfer, including a designation of beneficiary under a life insurance policy, to the trustee or trustees of a trust established or to be established by the testator or transferor or by the testator or transferor and some other person or persons or by some other person or persons, including a funded or unfunded life insurance trust, although the settlor thereof has reserved any or all rights of ownership of the insurance contracts, if the trust is identified in the testator's will or the instrument of transfer and its terms are set forth in a written instrument. The devise or transfer

shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will, the delivery of the instrument of transfer, or the death of the testator. Notwithstanding whether a devise or transfer is made before or after August 28, 1996, a devise or transfer is valid if the devise or transfer is made only to the name of the trust or if the devise or transfer is made to the name or names of the trustee or trustees as the trustee or trustees of the trust. Unless the testator's will or the instrument of transfer provides otherwise, the property so devised:

(1) Shall not be deemed to be held under a testamentary trust of the testator or transferor but shall become a part of the trust to which it is given; and

(2) Shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator or transferor, regardless of whether made before or after the execution of the testator's will or the delivery of the instrument of transfer, and, if the testator's will or the instrument of transfer so provides, including any amendments to the trust made after the death of the testator or transferor. A revocation or termination of the trust before the death of the testator shall cause a devise to the trustees of that trust to lapse.

[456.235.] 456.023. POWER OF APPOINTMENT NOT EXERCISED BY WILL, WHEN. — A general residuary clause in a will, or a will making general disposition of all of the testator's property, does not exercise a power of appointment granted in an instrument creating or amending a trust unless specific reference is made to the power or there is some other indication of intention to include the property subject to the power.

[456.236.] 456.025. INAPPLICABILITY OF THE RULE AGAINST PERPETUITIES — RULE PROHIBITING UNREASONABLE RESTRAINTS OR SUSPENSION OF POWER OF ALIENATION NOT VIOLATED, WHEN — RULE AGAINST ACCUMULATIONS NOT APPLICABLE, WHEN. — 1. The rule against perpetuities shall not apply to and any rule prohibiting unreasonable restraints on or suspension of the power of alienation shall not be violated by a trust if a trustee, or other person or persons to whom the power is properly granted or delegated, has the power pursuant to the terms of the trust or applicable law to sell the trust property during the period of time the trust continues beyond the period of the rule against perpetuities that would apply to the trust but for this subsection.

2. No rule against accumulations shall apply to a trust described in subsection 1 of this section unless the terms of the trust require that the income be accumulated during a period of time the trust continues beyond the period of the rule against perpetuities that would apply to the trust but for subsection 1 of this section. If the terms of the trust require that the income be accumulated during any period of time the trust continues beyond the period of the rule against perpetuities that would apply to the trust but for subsection 1 of this section, then during that period of time the trustee shall have the power to make discretionary distributions of net income to such recipients and in such shares and in such manner as most closely effectuates the settlor's or testator's manifested plan of distribution.

3. The provisions of this section apply to:

(1) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of a power of appointment other than a general power of appointment granted under a will or inter vivos agreement, executed or amended on or after August 28, 2001;

(2) Any trust created pursuant to the exercise of a general power of appointment exercised in an instrument executed or amended on or after August 28, 2001; or

(3) Any trust created by a will or inter vivos agreement, or pursuant to the exercise of a power of appointment granted under a will or inter vivos agreement, executed or amended before August 28, 2001, if the laws of this state become applicable to the trust after such date, the laws of any other state applied to the trust before such date, and the rule against perpetuities did not apply to the trust pursuant to the laws of the other state.

4. As used in this section, the term "trust" [shall have the same meaning as in subdivision (2) of section 456.500, except that the term shall not include a trust that is not subject to the rule against perpetuities by reason of any other law of this state] **means an express trust created by a trust instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary, or both. The term "trust" does not include a resulting or constructive trust, a business trust which provides for certificates to be issued to the beneficiary, an investment trust, a voting trust, a security instrument, a trust created by the judgment or decree of a court, a liquidation trust, or a trust for the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions, or profits, or employee benefits of any kind, an instrument wherein a person is nominee or escrowee for another, a trust created in deposits in any financial institution, a trust that is not subject to the rule against perpetuities by reason of any other law of this state, or any other trust the nature of which does not admit of general trust administration.**

[456.400.] 456.027. REGISTRATION OF TRUST. — 1. The trustee of a trust having its principal place of administration in this state may register the trust in the probate division of the circuit court of the county wherein the principal place of administration is located.

2. "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a resulting or constructive trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive and resulting trusts, guardianships, conservatorships, decedents' estates, and trust accounts with financial institutions in the name of one or more parties as trustee for one or more beneficiaries where the fiduciary relationship is established by the form of the account and the deposit agreement with the financial institution, and there is no subject of the trust other than the sums on deposit in such account. "Trust" also excludes custodial arrangements pursuant to chapter 404, RSMo, the Missouri Uniform Gifts to Minors Law, paying and transfer agencies, business trusts providing for certificates to be issued to beneficiaries, investment trusts, common trust funds, voting trusts, security instruments or arrangements, liquidation trusts, trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions or employee benefits of any kind, and any arrangements under which a person is nominee or escrowee for another.

3. Unless otherwise designated in the trust instrument, the "principal place of administration of a trust" is the trustee's usual place of business where the records pertaining to the trust are kept, or at the trustee's residence if he has no such place of business. In the case of cotrustees, the principal place of administration, if not otherwise designated in the trust instrument, is:

(1) The usual place of business of the corporate trustee if there is but one corporate cotrustee; or

(2) The usual place of business or residence of the individual trustee who is a professional fiduciary if there is but one such person and no corporate cotrustee; and otherwise

(3) The usual place of business or residence of any of the cotrustees as agreed upon by them.

4. "Professional fiduciary" means an individual trustee who represents himself to the public as having specialized training, experience or skills in the administration of trusts.

5. The right to register under this section does not apply to the trustee of a trust if registration would be inconsistent with the retained jurisdiction of a foreign court from which the trustee cannot obtain release of registration.

[456.410.] 456.029. REGISTRATION PROCEDURE. — Such registration shall be accomplished by filing a statement, indicating the name and address of the trustee and acknowledging the trusteeship. The statement shall indicate whether the trust has been registered elsewhere and shall identify the trust:

(1) In the case of a testamentary trust, by the name of the testator and the date and place of domiciliary probate;

(2) In the case of a written inter vivos trust, by the name of each settlor and the original trustee and the date of the trust instrument; or

(3) In the case of an oral trust, by information identifying the settlor or other source of funds and describing the time and manner of the trust's creation and the terms of the trust, including the subject matter, beneficiaries and time of performance. A registration may be withdrawn by a similar statement.

[456.420.] 456.031. RECORDS AND CERTIFIED COPIES. — The clerk of the probate division of the circuit court shall keep a record for each trust so registered, including trust registration statements, petitions and applications, demands for notices or bonds, and of any orders or responses relating thereto by the court, and establish and maintain a system for indexing, filing or recording which is sufficient to enable users of the records to identify and obtain information about such registered trusts. Upon payment of the fees required by law the clerk must issue certified copies of any record or paper filed or recorded.

[456.430.] 456.033. EFFECT OF REGISTRATION. — 1. By registering a trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the court in any proceeding involving the internal affairs of the trust that may be initiated by any interested person while the trust remains registered. Notice of any such proceeding shall be delivered to the trustee or mailed to him by ordinary first-class mail at his address as listed in the registration statement or as thereafter reported to the court and to his address as then known to the petitioner.

2. To the extent of their interests in the trust, all beneficiaries of a trust registered in this state are subject to the jurisdiction of the court of registration for the purposes of proceedings involving internal affairs of the trust, provided notice is given pursuant to section 472.100, RSMo.

3. "Interested persons" include beneficiaries and any others having a property right in or claim against a trust estate which may be affected by a judicial proceeding. It also includes persons and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

4. "Internal affairs" proceedings, without limitation, are those which involve interpretation or construction of the terms of the trust by declarations, instructions or judgments as to the existence, nonexistence and extent of rights, powers, privileges, immunities, duties, liabilities and remedies of trustees and beneficiaries in the administration and distribution of trusts, including but not limited to proceedings concerning:

(1) The qualifications, appointment, removal, indemnification, reimbursement, exoneration or surcharge of trustees;

(2) The imposition, change and release of requirements for trustees' bonds;

(3) The employment of agents and compensation to them and to trustees;

(4) The review and settlement of interim and final accounts;

(5) The propriety of investments or of principal and income allocations;

(6) The allowance of deviations from or modifications of trust terms;

(7) The ascertainment of beneficiaries or of beneficial interests;

(8) The requirements for release of registration or change of principal place of administration;

(9) The timing and quantity of distributions and dispositions of assets;

(10) The validity and effect of alienations by beneficiaries, by exercise of powers of appointment or otherwise; and

(11) Terminations of trusts.

[456.620.] 456.035. EVIDENCE AS TO DEATH OR STATUS — FIVE-YEAR ABSENCE PRESUMPTION OF DEATH. — 1. A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie proof of the fact, place, date and time of death and the identity of the deceased settlor, trustee, beneficiary or other interested person.

2. A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that a person is missing, detained, dead, or alive is prima facie evidence of the status and of the dates, circumstances and places disclosed by the record or report.

3. A person who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. His death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

[456.640.] 456.037. TRUST PROPERTY — WHEN DEEMED UNCLAIMED. — 1. Property of any kind remaining in a trust which is not subject to administration or distribution to or for an identifiable beneficiary may be deemed to be unclaimed property when the trustee, after reasonable and diligent search, is unable to find or ascertain the existence of any heirs, legal representatives, successors or assigns of any beneficiary to whom such property is distributable by the trust instrument, by any other instrument pertaining to the trust estate, or by the laws of Missouri.

2. Property of any kind remaining in a trust, which is distributable to or for the benefit of an identified beneficiary, may be deemed to be unclaimed when such beneficiary has, for three years after a good faith attempt to notify him in writing of his right to such property, failed or refused to claim the property.

[456.650.] 456.039. PROCEDURE BY TRUSTEE WITH RESPECT TO UNCLAIMED PROPERTY. — 1. Any trustee holding such unclaimed property may file with the state treasurer a verified statement setting forth the reason or reasons why such property is presumed to be unclaimed, the efforts made to find or ascertain any heirs, legal representatives, successors or assigns of any beneficiary or beneficiaries to whom such property is distributable, a list of all instruments known to the trustee that pertain to the trust and their location, with copies of those that are in possession of the trustee, and any further facts causing the trustee to believe that the property is unclaimed, and transfer such property to the state treasurer, who shall issue his receipt therefor.

2. All property so received shall be credited to the escheat fund of the state of Missouri.

[456.660.] 456.041. UNCLAIMED PROPERTY — LIABILITY OF TRUSTEE. — 1. The payment or delivery of such unclaimed property to the state treasurer by the trustee shall terminate any legal relationship between the trustee and beneficiary or apparent beneficiary to receive such property and shall release and discharge the trustee from any and all liability to such beneficiary, his heirs, personal representatives, successors and assigns by such payment or delivery, regardless of whether such property is in fact or in law unclaimed property.

2. Such payment or delivery may be pleaded as a bar to recovery and shall be a defense in any suit or action brought by the apparent owner, or his heirs, personal representatives, successors or assigns, or any claimant against the trustee by reason of the delivery of payment.

461.300. BENEFICIARIES TO PAY, PRO RATA SHARE OF ALL PROPERTY RECEIVED TO COVER STATUTORY ALLOWANCES AND CLAIMS DUE ESTATE, ENFORCED BY ACTION FOR ACCOUNTING, TIME LIMITATION — ACTION AFFECT ON TRANSFERRING ENTITY. — 1. Each recipient of a recoverable transfer of a decedent's property shall be liable to account for a pro rata share of the value of all such property received, to the extent necessary to discharge the statutory allowances to the decedent's surviving spouse and dependent

children, and claims remaining unpaid after application of the decedent's estate, including expenses of administration and costs as provided in subsection 3 of this section, and including estate or inheritance or other transfer taxes imposed by reason of the decedent's death only where payment of those taxes is a prerequisite to satisfying unpaid claims which have a lower level of priority. No proceeding may be brought under this section when the deficiency described in this subsection is solely attributable to costs and expenses of administration.

2. The obligation of a recipient of a recoverable transfer may be enforced by an action for accounting commenced within eighteen months following the decedent's death by the decedent's personal representative or a qualified claimant, but no action for accounting under this section shall be commenced by any qualified claimant unless the personal representative has received a written demand therefor by a qualified claimant, within sixteen months following the decedent's death. If the personal representative fails to commence an action within thirty days of the receipt of a written demand to do so, any qualified claimant may commence such action. If the personal representative fails to commence the action, the personal representative shall disclose to the qualified claimant or qualified claimants who made such written demand all material knowledge within the possession of the personal representative reasonably relating to the identity of any recipient of a recoverable transfer made by the decedent. In the event the personal representative fails to provide such information with respect to any recoverable transfer of the decedent's property to the personal representative, the eighteen-month limitation is tolled for such recoverable transfer until such time as the personal representative provides such information. In the event the personal representative is alleged in a verified pleading to be a recipient of a recoverable transfer from the decedent, the court may appoint an administrator ad litem to represent the estate in any proceeding brought pursuant to this section. Sums recovered in an action for accounting under this section shall be administered by the personal representative as part of the decedent's estate.

3. The judgment in a proceeding authorized by this section shall take into account the expenses of administration of the estate including the cost of administering the additional assets obtained in the proceeding, and the costs of the proceeding to the extent authorized by this subsection. The court may order the costs of the proceeding, including attorney fees, to be treated as expenses of administration of the estate.

4. If an action for accounting has been commenced under this section within eighteen months following the decedent's death, then any party to the proceeding may join and bring into the action for accounting any other recipient of a recoverable transfer of the decedent's property even if the other recipient is not joined until more than eighteen months following the decedent's death. If an action for accounting has been commenced under this section more than eighteen months following the decedent's death pursuant to the tolling provisions of subsection 2 of this section, then the personal representative, or former personal representative, who received a recoverable transfer of the decedent's property shall be liable to account under the provisions of subsection 1 of this section for the value of all such property received by such personal representative, or former personal representative, and no other recipient of a recoverable transfer of the decedent's property may be joined or brought into the action, and in such case, full recovery, rather than pro rata recovery, may be had from the recoverable property received by such personal representative or former personal representative.

5. This section shall not affect the right of any transferring entity, as defined in section 461.005, to execute a direction of the decedent to make a payment or to make a recoverable transfer on death of the decedent, or make the transferring entity liable to the decedent's estate, unless before the payment or transfer is made the transferring entity has been served with process in a proceeding brought under this section and the transferring entity has had a reasonable time to act on it.

6. This section does not create a lien on any property that is the subject of a recoverable transfer, except as a lien may be perfected by the way of attachment, garnishment, or judgment in an accounting proceeding authorized by this section.

7. An action for accounting under the provisions of this section may be filed in the probate division of the circuit court, and the probate division of the circuit court may hear and determine questions and issue appropriate orders in an action for accounting under this section. Any proceeding under this section and any statements by a personal representative in connection with any recoverable transfer shall be deemed to be proceedings or statements under the probate code that are subject to section 472.013, RSMo.

8. The recipient of any property held in trust that was subject to the satisfaction of the decedent's debts immediately prior to the decedent's death, and the recipient of any property held in joint tenancy with right of survivorship that was subject to the satisfaction of the decedent's debts immediately prior to the decedent's death, are subject to this section, but only to the extent of the decedent's contribution to the value of the property.

9. The provisions of this section shall apply to all actions commenced after August 28, 1995, except that with respect to decedents dying prior to August 28, 1995, an action for accounting under this section may be commenced within two years following the decedent's death.

10. As used in this section, the following terms mean:

(1) "Creditor", any person to whom the decedent is liable, which liability survives whether arising in contract, tort, or otherwise, and any person to whom the decedent's estate is liable for funeral expenses and the reasonable cost of a tombstone;

(2) "Dependent child", the decedent's minor children whom the decedent was obligated to support and the children who were in fact being supported by the decedent;

(3) "Qualified claimant", a creditor, surviving spouse, dependent child, or a person acting for a dependent child of the decedent;

(4) "Recoverable transfer", a nonprobate transfer of a decedent's property under sections 461.003 to 461.081 and any other transfer of a decedent's property other than from the administration of the decedent's probate estate that was subject to satisfaction of the decedent's debts immediately prior to the decedent's death, but only to the extent of the decedent's contribution to the value of such property.

[456.240.] 469.240. DEFINITIONS. — 1. In sections [456.240 to 456.350] **469.240 to 469.350** unless the context or subject matter otherwise requires:

(1) "Bank" includes any person or association of persons, whether incorporated or not, carrying on the business of banking;

(2) "Fiduciary" includes a trustee under any trust, expressed, implied, resulting or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust or estate;

(3) "Person" includes a corporation, partnership, or other association, or two or more persons having a joint or common interest;

(4) "Principal" includes any person to whom a fiduciary as such owes an obligation.

2. A thing is done "in good faith" within the meaning of sections [456.240 to 456.350] **469.240 to 469.350**, when it is in fact done honestly, whether it be done negligently or not.

[456.250.] 469.250. PAYMENT OR TRANSFERS TO FIDUCIARIES OR AT THE DIRECTION OF THE FIDUCIARY, EFFECT ON TRANSFEROR. — A person who in good faith pays or transfers to a fiduciary or to any other person as directed by a fiduciary any money or other property

which the fiduciary as such is authorized to receive, is not responsible for the proper application thereof by the fiduciary, and any right or title acquired from the fiduciary in consideration of such payment or transfer is not invalid in consequence of a misapplication by the fiduciary.

[456.260.] 469.260. TRANSFER OF NEGOTIABLE INSTRUMENT BY FIDUCIARY. — If any negotiable instrument payable or endorsed to a fiduciary as such is endorsed by the fiduciary, or if any negotiable instrument payable or endorsed to his principal is endorsed by a fiduciary empowered to endorse such instrument on behalf of his principal, the endorsee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in endorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith. If, however, such instrument is transferred by the fiduciary in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in transferring the instrument.

[456.270.] 469.270. CHECK DRAWN BY FIDUCIARY PAYABLE TO THIRD PERSON. — If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of his principal by a fiduciary empowered to draw such instrument in the name of his principal, the payee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that this action in taking the instrument amounts to bad faith. If, however, such instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of or as security for a personal debt of the fiduciary to the actual knowledge of the creditor, or is drawn and delivered in any transaction known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the instrument.

[456.280.] 469.280. CHECK DRAWN BY AND PAYABLE TO FIDUCIARY. — If a check or other bill of exchange is drawn by a fiduciary as such or in the name of his principal by a fiduciary empowered to draw such instrument in the name of his principal, payable to the fiduciary personally, or payable to a third person and by him transferred to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith.

[456.290.] 469.290. DEPOSIT IN NAME OF FIDUCIARY AS SUCH. — If a deposit is made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of the deposit or any part thereof upon the check of the fiduciary, signed with the name in which such deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing the check or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the

principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check.

[456.300.] 469.300. DEPOSIT IN NAME OF PRINCIPAL. — If a check is drawn upon the account of his principal in a bank by a fiduciary who is empowered to draw checks upon his principal's account, the bank is authorized to pay such check without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing such check, or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of or as security for a personal debt of the fiduciary to it, the bank is liable to the principal if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check.

[456.310.] 469.310. DEPOSIT IN FIDUCIARY'S PERSONAL ACCOUNT. — If a fiduciary makes a deposit in a bank to his personal credit of checks drawn by him upon an account in his own name as fiduciary, or of checks payable to him as fiduciary, or of checks drawn by him upon an account in the name of his principal if he is empowered to draw checks thereon, or of checks payable to his principal and endorsed by him, if he is empowered to endorse such checks, or if he otherwise makes a deposit of funds held by him as fiduciary, the bank receiving such deposit is not bound to inquire whether the fiduciary is committing thereby a breach of his obligation as fiduciary; and the bank is authorized to pay the amount of the deposit or any part thereof upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in making such deposit or in drawing such check, or with knowledge of such facts that its action in receiving the deposit or paying the check amounts to bad faith.

[456.320.] 469.320. DEPOSIT IN NAMES OF TWO OR MORE TRUSTEES. — When a deposit is made in a bank in the name of two or more persons as trustees and a check is drawn upon the trust account by any trustee or trustees authorized by the other trustee or trustees to draw checks upon the trust account, neither the payee nor other holder nor the bank is bound to inquire whether it is a breach of trust to authorize such trustee or trustees to draw checks upon the trust account, and is not liable unless the circumstances be such that the action of the payee or other holder or the bank amounts to bad faith.

[456.330.] 469.330. CASES NOT PROVIDED FOR IN LAW. — In any case not provided for in sections [456.240 to 456.350] 469.240 to 469.350 the rules of law and equity, including the law merchant and those rules of law and equity relating to trusts, agency, negotiable instruments and banking, shall continue to apply.

[456.340.] 469.340. UNIFORMITY OF INTERPRETATION. — This law shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[456.350.] 469.350. SHORT TITLE. — Sections [456.240 to 456.350] **469.240 to 469.350** may be cited as the "Uniform Fiduciaries Law".

469.401. DEFINITIONS. — As used in sections 469.401 to 469.467, the following terms mean:

(1) "Accounting period", a calendar year unless another twelve-month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve-month period that begins when an income interest begins or ends when an income interest ends;

(2) "Beneficiary", an heir, legatee and devisee of a decedent's estate, and an income beneficiary and a remainder beneficiary of a trust, including any type of entity that has a beneficial interest in either an estate or a trust;

(3) "Fiduciary", a personal representative, trustee, executor, administrator, successor personal representative, special administrator and any other person performing substantially the same function;

(4) "Income", money or property that a fiduciary receives as current return from a principal asset, including a portion of receipts from a sale, exchange or liquidation of a principal asset, as provided in sections 469.423 to 469.449;

(5) "Income beneficiary", a person to whom net income of a trust is or may be payable;

(6) "Income interest", the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion;

(7) "Mandatory income interest", the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;

(8) "Net income", if section 469.411 applies to the trust, the unitrust amount, or if section 469.411 does not apply to the trust, the total receipts allocated to income during an accounting period minus the disbursements made from income during the same period, plus or minus transfers pursuant to sections 469.401 to 469.467 to or from income during the same period;

(9) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation or any other legal or commercial entity;

(10) "Principal", property held in trust for distribution to a remainder beneficiary when the trust terminates;

(11) "Qualified beneficiary", a beneficiary [who, on the date qualification is determined, either is entitled or eligible to receive a distribution of trust income or principal, or would be entitled to receive a distribution if the event causing the trust to terminate occurred on that date] **defined in section 456.1-103, RSMo;**

(12) "Remainder beneficiary", a person entitled to receive principal when an income interest ends;

(13) "Terms of a trust", the manifestation of the settlor's or decedent's intent expressed in a manner which is admissible as proof in a judicial proceeding, whether by written or spoken words or by conduct;

(14) "Trustee", an original, additional or successor trustee, whether or not appointed or confirmed by a court;

(15) "Unitrust amount", net income as defined by section 469.411.

469.402. APPLICABILITY. — The provisions of sections 456.3-301 to 456.3-305 shall apply to sections 469.401 to 469.467 for all purposes.

469.409. BAR ON CLAIM OF BREACH OF FIDUCIARY DUTY, WHEN — APPLICABLE RULES.

— 1. Any claim for breach of a trustee's duty to impartially administer a trust related, directly or indirectly, to an adjustment made by a fiduciary to the allocation between principal and income pursuant to subsection 1 of section 469.405 or any allocation made by the fiduciary pursuant to any authority or discretion specified in subsection 1 of section 469.403, unless previously barred by adjudication, consent or other limitation, shall be barred as provided in this section.

(1) Any such claim brought by a qualified beneficiary is barred if not asserted in a judicial proceeding commenced within two years after the trustee has sent a report to that qualified beneficiary that adequately discloses the facts constituting the claim.

(2) Any such claim [is barred if not asserted in a judicial proceeding brought by any beneficiary] brought by a beneficiary (other than a qualified beneficiary) with any interest

whatsoever in the trust, no matter how remote or contingent, or whether or not the beneficiary is ascertainable or has the capacity to contract, **is barred if not asserted in a judicial proceeding commenced** within two years after **the first to occur of:**

(a) **The date** the trustee [has] sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim; **or**

(b) **The date the trustee sent a report to a person that represents the beneficiary under the provisions of subdivision (2) of subsection 2 of this section.**

2. For purposes of this section the following rules shall apply:

(1) A report adequately discloses the facts constituting a claim if it provides sufficient information so that the beneficiary should know of the claim or reasonably should have inquired into its existence;

(2) [A qualified beneficiary is deemed to have been sent a report if:

(a) In the case of a qualified beneficiary who has the capacity to contract, the report is either delivered personally to the beneficiary or sent to the beneficiary at the beneficiary's last known address;

(b) In the case of a qualified beneficiary who lacks the capacity to contract, the report is either hand delivered to a person with respect to whom pursuant to subdivision (2) of section 472.300, RSMo, an order would bind that beneficiary with respect to the subject of the claim or sent to the person at that person's last known address, provided that there is no conflict of interest between that person and the qualified beneficiary that person is representing] **Section 469.402 shall apply in determining whether a beneficiary (including a qualified beneficiary) has received notice for purposes of this section;**

(3) The determination of the identity of all qualified beneficiaries shall be made on the date the report is deemed to have been sent; and

(4) This section does not preclude an action to recover for fraud or misrepresentation related to the report.

469.411. DETERMINATION OF UNITRUST AMOUNT — DEFINITIONS — EXCLUSIONS TO NET FAIR MARKET VALUE OF ASSETS — APPLICABILITY OF SECTION TO CERTAIN TRUSTS.
— 1. If the provisions of this section apply to a trust, the unitrust amount shall be determined as follows:

(1) For the first three accounting periods of the trust, the unitrust amount for a current valuation year of the trust shall be [three percent, or any higher percentage] **a percentage between three and five percent that is** specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the net fair market values of the assets held in the trust on the first business day of the current valuation year;

(2) Beginning with the fourth accounting period of the trust, the unitrust amount for a current valuation year of the trust shall be [three percent, or any higher percentage] **a percentage between three and five percent that is** specified by the terms of the governing instrument or by the election made in accordance with subdivision (2) of subsection 5 of this section, of the average of the net fair market values of the assets held in the trust on the first business day of the current valuation year and the net fair market values of the assets held in the trust on the first business day of each prior valuation year, **regardless of whether this section applied to the ascertainment of net income for all valuation years;**

(3) The unitrust amount for the current valuation year computed pursuant to subdivision (1) or (2) of this subsection shall be proportionately reduced for any distributions, in whole or in part, other than distributions of the unitrust amount, and for any payments of expenses, including debts, disbursements and taxes, from the trust within a current valuation year that the trustee determines to be material and substantial, and shall be proportionately increased for the receipt, other than a receipt that represents a return on investment, of any additional property into the trust within a current valuation year;

(4) For purposes of subdivision (2) of this subsection, the net fair market values of the assets held in the trust on the first business day of a prior valuation year shall be adjusted to reflect any reduction, in the case of a distribution or payment, or increase, in the case of a receipt, for the prior valuation year pursuant to subdivision (3) of this subsection, as if the distribution, payment or receipt had occurred on the first day of the prior valuation year;

(5) In the case of a short accounting period, the trustee shall prorate the unitrust amount on a daily basis;

(6) In the case where the net fair market value of an asset held in the trust has been incorrectly determined either in a current valuation year or in a prior valuation year, the unitrust amount shall be increased in the case of an undervaluation, or be decreased in the case of an overvaluation, by an amount equal to the difference between the unitrust amount determined based on the correct valuation of the asset and the unitrust amount originally determined.

2. As used in this section, the following terms mean:

(1) "Current valuation year", the accounting period of the trust for which the unitrust amount is being determined;

(2) "Prior valuation year", each of the two accounting periods of the trust immediately preceding the current valuation year.

3. In determining the sum of the net fair market values of the assets held in the trust for purposes of subdivisions (1) and (2) of subsection 1 of this section, there shall not be included the value of:

(1) Any residential property or any tangible personal property that, as of the first business day of the current valuation year, one or more income beneficiaries of the trust have or had the right to occupy, or have or had the right to possess or control, other than in a capacity as trustee, and instead the right of occupancy or the right to possession or control shall be deemed to be the unitrust amount with respect to the residential property or the tangible personal property; or

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on investment on that asset, which return on investment shall be distributable to the beneficiary.

4. In determining the net fair market value of each asset held in the trust pursuant to subdivisions (1) and (2) of subsection 1 of this section, the trustee shall, not less often than annually, determine the fair market value of each asset of the trust that consists primarily of real property or other property that is not traded on a regular basis in an active market by appraisal or other reasonable method or estimate, and that determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on [or], before, **or after** August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply [two years from August 28, 2001,] unless the instrument creating the trust [provides otherwise] **specifically prohibits an election under this subdivision**. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. [Delivery of the notice to a person with respect to whom, pursuant to subdivision (2) of section 472.300, RSMo, an order would bind a beneficiary of the trust is delivery of notice to that beneficiary for all purposes of this subsection.] **Section 469.402 shall apply for all purposes of this subdivision**. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the

trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is [three percent or greater] **between three and five percent**, or if no percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section 469.405;

(3) No action of any kind based on an election made [or not made] by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from [August 28, 2001] **the effective date of that election.**

(4) **If this section is made applicable under this subdivision to an institutional endowment fund, as defined in section 402.010, RSMo, the restrictions contained in section 402.015, RSMo, shall not apply to the extent payment of a unitrust amount would otherwise be prohibited.**

469.419. TRUSTEE TO ALLOCATE INCOME RECEIPT OR DISBURSEMENT, WHEN. — 1.

A trustee shall allocate an income receipt or disbursement other than one to which **subsection 1** of section 469.413 applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

2. A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement shall be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins shall be allocated to principal and the balance shall be allocated to income.

3. An item of income or an obligation is due on the date a payment is required. If a payment date is not stated, there is no due date for the purposes of sections 469.401 to 469.467. Distributions to shareholders or other owners from an entity to which section 469.423 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that shall be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

469.423. ALLOCATIONS BY TRUSTEE — ENTITY DEFINED. — 1. For purposes of this section, the term "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest, other than a trust or estate to which section 469.425 applies, a business or activity to which section 469.427 applies, or an asset-backed security to which section [469.447] **469.449** applies.

2. Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

3. A trustee shall allocate the following receipts from an entity to principal:

- (1) Property other than money;
- (2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;
- (3) Money received in total or partial liquidation of the entity; and
- (4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

4. Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that such money is a distribution in partial liquidation; or

(2) If the total amount of money and property received in a distribution or series of related distributions is greater than twenty percent of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

5. Money is not received in partial liquidation, nor may it be taken into account pursuant to subdivision (2) of subsection 4 of this section, to the extent that such money does not exceed the amount of income tax that a trustee or beneficiary shall pay on taxable income of the entity that distributes the money.

6. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

469.435. INSUBSTANTIAL AMOUNTS MAY BE ALLOCATED TO PRINCIPAL, EXCEPTIONS — PRESUMPTION OF INSUBSTANTIAL AMOUNT, WHEN. — If a trustee determines that an allocation between principal and income required by section 469.437, 469.439, 469.441, 469.443 or [469.447] **469.449** is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in subsection 3 of section 469.405 applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in subsection 4 of section 469.405 and may be released for the reasons and in the manner described in subsection 5 of section 469.405. An allocation is presumed to be insubstantial if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent; or

(2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent of the total value of the trust's assets at the beginning of the accounting period.

469.449. ALLOCATION OF COLLATERAL FINANCIAL ASSETS AND ASSET-BACKED SECURITIES. — 1. As used in this section, the phrase "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The phrase includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The phrase does not include an asset to which section 469.423 or [469.435] **469.437** applies.

2. If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

3. If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate ten percent of the payment to income and the balance to principal.

469.453. REQUIRED DISBURSEMENTS FROM PRINCIPAL. — 1. A trustee shall make the following disbursements from principal:

(1) The remaining one-half of the disbursements described in subdivisions (1) and (2) of section 469.451;

(2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(3) Payments on the principal of a trust debt;

- (4) Expenses of a proceeding or other matter that concerns primarily an interest in principal;
- (5) Premiums paid on a policy of insurance not described in subdivision (4) of section 469.451 of which the trust is the owner and beneficiary;
- (6) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(7) **Extraordinary expenses incurred in connection with the management and preservation of trust property;**

(8) **Expenses for a capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments; and**

(9) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

[456.900.] 469.900. CITATION OF LAW — DEFINITIONS. — Sections [456.900 to 456.913] **469.900 to 469.913** shall be known, and may be cited, as the "Missouri Prudent Investor Act". As used in this act, the term "trustee" includes independent personal representatives and trustees, whether of express or implied trusts, and the term "trust" includes independently administered estates.

[456.901.] 469.901. TRUSTEE DUTIES, SETTLOR MAY RESTRICT OR EXPAND. — 1. Except as otherwise provided in subsection 2 of this section, or by other applicable laws, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this act.

2. A settlor may expand or restrict the prudent investor rule detailed in this act by express provisions in the trust instrument. A trustee is not liable to a beneficiary for the trustee's good faith reliance on these express provisions.

[456.902.] 469.902. TRUSTEE DUTIES AND POWERS — DECISIONS TO BE EVALUATED IN CONTEXT OF TRUST. — 1. A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

2. A trustee's investment and management decisions respecting individual assets and courses of action must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

3. When investing and managing trust assets, a trustee shall consider the following as are relevant to the trust or its beneficiaries:

- (1) General economic conditions;
 - (2) The possible effect of inflation or deflation;
 - (3) The expected tax consequences of investment decisions or strategies;
 - (4) The role that each investment or course of action plays within the overall trust portfolio;
 - (5) The expected total return from income and the appreciation of capital;
 - (6) Other resources of the beneficiaries known to the trustee;
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- (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital;
 - (8) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries; and
 - (9) The size of the portfolio, nature and estimated duration of the fiduciary relationship and distribution requirements under the governing instrument.
4. A trustee shall make a reasonable effort to ascertain facts relevant to the investment and management of trust assets.
5. A trustee may invest in any kind of property or type of investment consistent with the standards of this act.
6. A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise when investing and managing trust assets.

[456.903.] 469.903. DIVERSIFICATION REQUIRED, EXCEPTION. — A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

[456.904.] 469.904. TRUST ASSETS, RETENTION AND DISPOSITION. — Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this act.

[456.905.] 469.905. TO WHOM DUTY OWED. — A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

[456.906.] 469.906. MULTIPLE BENEFICIARIES, DUTY OWED TO WHOM. — If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

[456.907.] 469.907. RESTRICTION ON COSTS. — In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of the trustee.

[456.908.] 469.908. PRUDENT INVESTOR RULE, STANDARD. — The prudent investor rule imposes a standard of conduct, but does not contemplate a specific outcome or performance. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

[456.909.] 469.909. TRUSTEE POWERS, DELEGATION — AGENT DUTIES — LIABILITY OF AGENT — AGENT SUBMITS TO JURISDICTION, WHEN. — 1. A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

- (1) Selecting an agent suitable to the exercise of the delegated function, taking into account the nature and the value of the assets subject to such delegation and the expertise of the agent;
- (2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

2. In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

3. A trustee who complies with the requirements of subsection 1 of this section is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

4. By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state even if the delegation agreement provides otherwise.

[456.910.] 469.910. TRUST TERMS AND PHRASES, DEFINITION. — The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorize any investment or strategy permitted under this act: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor rule".

[456.911.] 469.911. APPLICABILITY OF CERTAIN SECTIONS. — Except as otherwise specifically provided in the terms of the trust or in sections [456.500 to 456.913] **456.035 to 456.041 and sections 469.900 to 469.913**, the provisions of sections [456.500 to 456.913] **456.035 to 456.041 and sections 469.900 to 469.913** shall apply to any trust established before or after August 28, [1996] **2004**, and to any trust asset acquired by the trustee before or after August 28, [1996] **2004**.

[456.912.] 469.912. INTERPRETATION OF CERTAIN SECTIONS. — This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among the states enacting it.

[456.913.] 469.913. SPECIFIC STATUTORY STANDARDS TO CONTROL. — The general assembly recognizes that persons, corporations, entities or state agencies who have responsibility for investing funds may be subject to a standard that is specifically set forth in other statutes. Under such circumstances, such persons, corporations, entities or state agencies shall comply with the standard of investment set forth in the other statute, and this act shall not modify or repeal that standard.

700.630. SURVIVORSHIP INTEREST IN MANUFACTURED HOMES — ISSUANCE OF CERTIFICATES OF OWNERSHIP, REQUIREMENTS, RESTRICTIONS. — **1.** A sole owner of a manufactured home, and multiple owners of a manufactured home who hold their interest as joint tenants with right of survivorship or as tenants by the entirety, on application and payment of the fee required for an original certificate of ownership, may request the director of revenue to issue a certificate of ownership for the manufactured home in beneficiary form which includes a directive to the director of revenue to transfer the certificate of ownership on death of the sole owner or on death of all multiple owners to one beneficiary or to two or more beneficiaries as joint tenants with right of survivorship or as tenants by the entirety named on the face of the certificate. The directive to the director of revenue shall also permit the beneficiary or beneficiaries to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary or beneficiaries name.

2. A certificate of ownership in beneficiary form may not be issued to persons who hold their interest in a manufactured home as tenants in common.

3. A certificate of ownership issued in beneficiary form shall include after the name of the owner, or after the names of multiple owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

4. (1) During the lifetime of a sole owner or prior to the death of the last surviving multiple owner, the signature or consent of the beneficiary or beneficiaries shall not be required for any transaction relating to the manufactured home for which a certificate of ownership in beneficiary form has been issued.

(2) A certificate of ownership in beneficiary form may be revoked or the beneficiary or beneficiaries changed at any time before the death of a sole owner or the last surviving multiple owner only by the following methods:

(a) By a sale of the manufactured home with proper assignment and delivery of the certificate of ownership to another person; or

(b) By filing an application to reissue the certificate of ownership with no designation of a beneficiary or with the designation of a different beneficiary or beneficiaries with the director of revenue in proper form and accompanied by the payment of the fee for an original certificate of ownership.

(3) The beneficiary's or beneficiaries' interest in the manufactured home at death of the owner or surviving owner shall be subject to any contract of sale, assignment of ownership or security interest to which the owner or owners of the manufactured home were subject during their lifetime.

(4) The designation of a beneficiary or beneficiaries in a certificate of ownership issued in beneficiary form may not be changed or revoked by a will, any other instrument, or a change in circumstances, or otherwise be changed or revoked except as provided by subdivision (2) of this subsection.

5. (1) On proof of death of one of the owners of two or more multiple owners, or of a sole owner, surrender of the outstanding certificate of ownership, and on application and payment of the fee for an original certificate of ownership, the director of revenue shall issue a new certificate of ownership for the manufactured home to the surviving owner or owners or, if none, to the surviving beneficiary or beneficiaries, subject to any outstanding security interest; and the current valid certificate of number shall be so transferred. If the surviving beneficiary or beneficiaries makes a request of the director of revenue, the director may allow the beneficiary or beneficiaries to make one assignment of title.

(2) The director of revenue may rely on a death certificate or record or report that constitutes prima facie proof or evidence of death under subdivisions (1) and (2) of section 472.290, RSMo.

(3) The transfer of a manufactured home at death pursuant to this section is not to be considered as testamentary, or to be subject to the requirements of section 473.087, RSMo, or section 474.320, RSMo.

SECTION 1. IN-HOME HEALTH CARE PROVIDERS, TRANSFER OF ASSETS OR BEQUESTS, REBUTTABLE PRESUMPTION OF UNDUE INFLUENCE, WHEN. — There shall be a rebuttable presumption of undue influence for any transfer of assets or bequest or devise to the benefit of any in-home health care provider who is not related to the grantor within the third degree of consanguinity. Such presumption shall not apply to reasonable payments for services rendered nor to transfers of less than five percent of the assets of the grantor.

[456.010. DECLARATIONS OF TRUST AND ASSIGNMENTS TO BE IN WRITING OR BY WILL.

— 1. All declarations or creations of trust of any lands, tenements or hereditaments shall be manifested and proved by some writing signed by the party who is, or shall be, by law, enabled to declare such trusts, or by his last will, in writing, or else they shall be void.

2. When any conveyance shall be made of any lands, tenements or hereditaments, by which a trust may arise or result by the implication or construction of law, such trust shall be excepted from the requirements of subsection 1.

3. All grants and assignments of the interest of a beneficiary under any trust of real or personal property shall be in writing signed by the party granting or assigning the same, or by his or her last will, in writing, or else they shall be void.]

[456.016. WHAT INSTRUMENTS AFFECTED. — Sections 456.015 and 456.016 shall be effective with respect to wills and revocable inter vivos trusts executed or created before or after October 13, 1969, by persons who die on or after said date, and to irrevocable inter vivos trusts which are created on or after October 13, 1969.]

[456.055. HONORARY TRUSTS — PET ANIMALS — NONCHARITABLE SOCIETIES. — A trust for care of pet animals or other lawful specific noncharitable purpose, society or organization may be carried out by the intended trustee or a successor trustee for twenty-one years or any shorter period specified by the terms of the trust although it has no ascertainable human beneficiary or might, by its terms, last longer than the period of the rule against perpetuities.]

[456.080. SPENDTHRIFT TRUSTS — CERTAIN PROVISION NOT APPLICABLE TO TRUSTS FOR BENEFIT OF EMPLOYEES. — 1. All restraints upon the right of the cestui que trust to alienate or anticipate the income of any trust estate in the form of a spendthrift trust, or otherwise, and all attempts to withdraw the income of any trust estate from the claims of creditors of the cestui que trust, whether such restraints be by will or deed, now existing or in force, or, which may be hereafter executed in this state, be and the same are hereby declared null and void and of no effect, as against the claims of any wife, child or children, of such cestui que trust for support and maintenance.

2. The settlor may provide in the terms of the trust that the interest of a beneficiary may not be either voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee.

3. A provision restraining the voluntary or involuntary transfer of beneficial interests in a trust will prevent the settlor's creditors from satisfying claims from the trust assets except:

(1) Where the conveyance of assets to the trust was intended to hinder, delay, or defraud creditors or purchasers, pursuant to section 428.020, RSMo; or

(2) To the extent of the settlor's beneficial interest in the trust assets, if at the time the trust was established or amended:

(a) The settlor was the sole beneficiary of either the income or principal of the trust or retained the power to revoke or amend the trust; or

(b) The settlor was one of a class of beneficiaries and retained a right to receive a specific portion of the income or principal of the trust that was determinable solely from the provisions of the trust instrument.

4. Subsection 3 of this section shall not apply to spendthrift trusts described, defined, or established pursuant to section 456.072.]

[456.090. COUNTY MAY ACT AS TRUSTEE FOR CHARITABLE USES. — Each county in this state shall have the power of acting as trustee for charitable uses, and as such trustee to take and hold by gift, grant, bequest or devise, money and other property, real, personal and mixed, to it given, granted, bequeathed or devised, in trust for charitable uses, and shall have the power, by and through its county commission, of executing trusts created in it for charitable uses in as full and ample a manner as an individual; provided, however, that gifts, grants, bequests or devises to provide medals, awards, prizes, scholarships, or other things to be given in or under the

direction of any public school in such county shall be deemed a charitable use, within the meaning of sections 456.090 to 456.110.]

[456.100. COUNTY DEEMED TRUSTEE, WHEN. — In all cases where heretofore money or other property, real, personal or mixed, has been given, granted, bequeathed or devised, in trust for charitable uses to any county in this state, or to the county commission of any county in this state, or to the commissioners of any county commission in this state, whether the individual names of such commissioners were or were not inserted in the instrument of gift, grant, bequest or devise, and there remains in the possession or control, or both, of the county named in said instrument, such money or other property and the increase thereof, or any portion of the same, then in all such cases the gift, grant, bequest or devise of money or other property shall be deemed and taken by all courts in this state in law and equity to have been made to the county mentioned in the said instrument, and such county shall be deemed and taken to have been created a trustee by such instrument, and shall continue to hold said money or other property and the increase thereof, or such portion thereof as remains in its possession or control, or both, under the trust created by said instrument, and shall have the power, by and through its county commission, to execute the trust created by such instrument in as full and ample manner as an individual.]

[456.110. COUNTY AS TRUSTEE TO BE UNDER CONTROL OF CIRCUIT COURT. — All counties which have been created and all counties which shall hereafter be created trustees for charitable uses, together with the trust property held or that may be held by them, shall be under the supervision and control of the circuit courts of the respective counties, and said counties, by and through their respective county commissions, may at any time apply to their respective circuit courts for advice and directions in the execution of their trusts for charitable uses.]

[456.120. TRUSTEE — QUALIFICATIONS, EXCEPTIONS. — 1. The trustee may be a natural person, corporation, limited liability company formed pursuant to chapter 347, RSMo, association or partnership with the capacity to take and hold property except as provided in subsection 2 of this section.

2. No corporation, partnership or association organized under the law of a state or country other than the state of Missouri and no United States national banking association having its principal place of business outside of the state of Missouri shall have the capacity to act as trustee in Missouri except as otherwise provided by section 362.600, RSMo.]

[456.130. TRUSTEE TO GIVE BOND — EXCEPTION. — Every trustee appointed or who may be appointed, by any last will, deed or other instrument of writing, to hold, manage or dispose of any property or estate, real, personal or mixed, for the use or benefit of any other person, may be required by the circuit court of the county in which any such will shall be proved and recorded, or in which such deed or instrument of writing shall be recorded, to give bond, in such sum and with such securities as the court shall direct, conditioned for the faithful execution of the trust, unless the will, deed or other instrument of writing, creating such trust, shall, in express terms, dispense with security.]

[456.140. PETITION FOR SECURITY — NOTICE TO TRUSTEE. — Any person having beneficial interest, present or future, absolute or contingent, in the trust property, may apply to such court for security, by a petition in writing, stating plainly and briefly why security ought to be given by the trustee, and shall deliver to the trustee a copy of the petition, and a notice, in writing, of the time when it will be presented, at least ten days before the application is made.]

[456.150. APPLICATION, HOW DETERMINED. — The trustee may answer the petition, in writing, and the court shall hear and determine the application summarily, and shall, as may be just, either reject the petition or direct the trustee to give security.]

[456.160. BOND — EXECUTION AND APPROVAL OF AMOUNT. — When security is directed to be given, the bond shall be to the state of Missouri, for the use of all persons beneficially interested in the trust property, and in such sum as the court shall direct, and shall be executed, approved by the court or judge thereof, and filed in the office of said court within the time to be specified in the order of court.]

[456.170. TRUSTEE FAILING TO GIVE BOND, TRUSTEESHIP CEASES — COURT TO APPOINT NEW ONE. — If the trustee fail to give bond and security in the time and manner required by the court, his trusteeship, and all his title, right and power to, in and over the trust property, shall cease, and the court shall appoint a new trustee in his stead, who shall immediately be invested with all the title, right and power of the former trustee.]

[456.180. NEW TRUSTEE REQUIRED TO GIVE BOND, HOW — IN DEFAULT TO BE DISMISSED. — The court may, upon its own motion or upon the application of any person interested, require and cause the new trustee from time to time, and as often as may be, to give such security as shall be sufficient to insure the faithful execution of the trust, or, in default thereof, to dismiss him, and appoint another trustee in his stead, who will give the required security, to be approved by the court.]

[456.183. RESIGNATION BY TRUSTEE, PROCEDURE. — A trustee may resign at any time by written notice of the resignation to the settlor, if living, to a cotrustee, if any, and to the beneficiaries then entitled to receive or eligible to have the benefit of the income from the trust estate.]

[456.185. RESIGNATION OF TRUSTEE — POWERS AND DUTIES OF REMAINING TRUSTEES OR IF NO REMAINING TRUSTEE, EFFECT. — If a trustee resigns:

- (1) The remaining trustee, if any, shall continue to act, with all the rights, powers and duties, of all the trustees; or
- (2) If there is no remaining trustee, the resigning trustee shall continue serving until a successor is appointed and a successor trustee may be appointed by a majority in interest of the beneficiaries then entitled to receive the income from the trust estate or, if the interest of the income beneficiaries is* indefinite, by a majority in number of the beneficiaries then eligible to have the benefit of the income of the trust estate, by an instrument in writing delivered to the successor, who shall become a successor trustee upon written acceptance of the appointment.]

[456.187. SUCCESSOR TRUSTEE'S RIGHTS, POWERS AND DUTIES — NO LIABILITY FOR ACTS OF PREDECESSOR TRUSTEE, EXCEPTION. — 1. A successor trustee shall have all the rights, powers and duties, which are granted to or imposed on the predecessor.

2. A successor trustee shall be under no duty to inquire into the acts or doings of a predecessor trustee, and is liable only for any act or failure to act of a predecessor trustee of which the successor trustee had actual knowledge and which the successor trustee fails to reveal to a majority in interest of the beneficiaries entitled, at the time of succession, to receive or eligible to have the benefit of the income from the trust.

3. With the approval of a majority in interest of the beneficiaries then entitled to receive or eligible to have the benefit of the income from the trust, a successor trustee may accept the account rendered and the property received as a full and complete discharge to the predecessor trustee without incurring any liability for so doing.]

[456.190. PROCEDURE UPON FAILURE OR UNWILLINGNESS OF TRUSTEE TO EXECUTE TRUST. — If any trustee appointed by any last will, deed or other instrument of writing to hold, manage or dispose of any property or estate, real, personal or mixed, for the use or benefit of any person or purpose shall die, or has died, shall become or has become mentally incapacitated or

disabled, shall tender his resignation as such trustee, shall neglect or refuse or has neglected or refused to act as such trustee, or shall or has become unable, by sickness or other disability to perform or execute his trust, the trustee or a beneficiary, his or her heirs, legal representatives or assigns may present his or their affidavit, stating the facts of the case, specifically, to the circuit court of the county in which the trust property, or any part thereof, is situated or in which the will creating the trust has been proved or recorded.]

[456.195. SUCCESSOR TRUSTEE, NOTICE OF HEARING REQUIRED, WHEN. — Unless all beneficiaries of the trust having the capacity to contract and to transfer property consent to the appointment of a named proposed successor trustee in an affidavit filed pursuant to the provisions of section 456.190, notice of hearing is required to be given pursuant to the provisions of section 472.300, RSMo.]

[456.200. COURT TO APPOINT NEW TRUSTEE — POWERS AND DUTIES. — If such court shall be satisfied that the facts stated in such affidavit are true, it shall make an order appointing a suitable trustee in the place of the prior trustee to hold the trust property to the same uses and trusts under and subject to the same powers and conditions as the same was held by the prior trustee, and who shall do and perform all the acts and things that the original trustee had power to do and perform, with the same force and effect, and shall thereby be substituted to and vested with the same title and interest in the trust property as was vested in and possessed by the prior trustee, and shall have the same power and right to convey and dispose of such title as the prior trustee had.]

[456.210. RETENTION OF JURISDICTION. — When the circuit court of any county has acquired jurisdiction over the trustee and beneficiaries of a trust incident to a proceeding for removal or appointment of a trustee, instructions to a trustee, accounting by a trustee, reimbursement, exoneration or surcharge of a trustee, or construction of the terms of the trust, it may, in its decree granting or denying relief in such proceeding, retain jurisdiction for the purpose of entertaining later proceedings of any of such types with reference to the trust so that no more notice need be given of such later proceedings than that required for hearings on motions during the pendency of a suit.]

[456.220. LIMITATIONS ON SUITS AGAINST TRUSTEES. — 1. Unless previously barred by adjudication, consent or limitation, any cause of action against a trustee for breach of trust shall be barred as to any beneficiary who has received a final account or other statement fully disclosing the matter and showing termination of the trust relationship between the trustee and the beneficiary unless a proceeding to assert the cause of action is commenced within five years after receipt of the final account or statement by him or, if he is a minor or disabled person, by a guardian or conservator of his estate; provided that, if a minor or disabled person has no guardian or conservator of his estate, then such cause of action shall not be barred until one year after the removal of such disability. The cause of action thus barred does not include any action to recover from a trustee for fraud, misrepresentation or concealment related to the settlement of the trust.

2. Any person shall be presumed to have received such a final account or statement as of the date such final account or statement is delivered personally to such person or mailed to such person at his last address known to the trustee.

3. Notwithstanding the above, all causes of action against a trustee for breach of trust or other action pertaining to the administration of the trust shall be barred as to all beneficiaries twenty-two years after the date of final termination of the trust.

4. The limitations herein shall apply to trusts terminating before or after the enactment of this section; provided, however, that as to trusts terminating before enactment, the limitations shall not apply until two years after September 28, 1983.]

[456.225. TESTAMENTARY TRUSTS — BOND REQUIRED, WHEN — ACCOUNTING MAY BE REQUIRED, PROCEDURE. — 1. Before rendering any decree of partial or final distribution of any bequest or devise in trust, the probate division of the circuit court, in its discretion, may require any trustee named as distributee in the will creating such trust to file bond, in an amount and with security fixed by the court, conditioned upon the faithful performance of the duties of the trustee, except the court shall not require a bond if the will which creates the trust directs that no bond shall be required of the trustee or trustees. No bond shall be required if the trustee is the surviving spouse of the testator or if the trustee or any cotrustee of the trust is a corporation and has a certificate of the director of finance of the state of Missouri that it has complied with the provisions of section 362.115, RSMo.]

[456.233. ACCOUNTING BY TRUSTEES. — Unless the terms of the trust provide otherwise or unless waived in writing by an adult, competent beneficiary, the trustee shall deliver a written statement of accounts to each income beneficiary or his personal representative at least annually. The statement shall contain at least:

- (1) A list of all receipts and disbursements since the last statement; and
- (2) All items of trust property held by the trustee on the date of the statement at their cost basis, if known, and their market value, if readily ascertainable.]

[456.234. CHOICE OF LAW AS TO MEANING OF TRUST INSTRUMENT. — The meaning of a disposition in an instrument creating or amending a trust shall be determined by the local law of a particular state selected by the settlor in his instrument unless the application of that law is contrary to the public policy of this state otherwise applicable to the disposition.]

[456.440. PRINCIPAL PLACE OF ADMINISTRATION — JURISDICTION. — 1. By accepting the trusteeship of a trust of which the principal place of administration is in this state, or by moving the principal place of administration of a trust to this state, the trustee submits personally to the courts of this state in proceedings involving internal affairs of such trust as to any matter relating to such internal affairs of the trust arising while the principal place of administration is located in this state.

2. To the extent of the beneficial interests in a trust of which the principal place of administration is in this state, the beneficiaries of the trust are subject to the jurisdiction of the courts of this state for purposes of proceedings involving internal affairs of that trust.]

[456.450. VENUE. — 1. Venue for proceedings involving the internal affairs of registered trusts is in the place of registration. Venue for proceedings involving the internal affairs of trusts not registered in this state is in any place where the trust properly could have been registered, and otherwise by the rules of civil procedure.

2. Where a judicial proceeding under this chapter could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.

3. If proceedings concerning the same trust are commenced in more than one court of this state, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided, and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to the other court.

4. If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making the finding may transfer the proceeding or file to the other court.]

[456.460. DISMISSAL OF MATTERS RELATING TO FOREIGN TRUSTS. — The court may, even over the objection of a party, entertain proceedings involving the internal affairs of a trust

registered or having its principal place of administration in another state when all appropriate parties could not be bound by litigation in the courts of the state where the trust is registered or has its principal place of administration; or when the interests of justice otherwise would seriously be impaired. The court may condition a stay or dismissal of a proceeding on the consent of any party to jurisdiction of the state in which the trust is registered or has its principal place of business, or the court may grant a continuance or enter any other appropriate order.]

[456.470. OATH OR AFFIRMATION ON FILED DOCUMENTS. — Except as otherwise specifically provided in this chapter or by rule, every document filed with the court under this chapter, including applications, petitions, and demands for notice, shall be deemed to include an oath, affirmation or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed.]

[456.480. LIABILITY OF TRUSTEE TO THIRD PERSONS. — 1. Unless otherwise provided by the terms of the contract, a trustee is not individually liable on a contract properly entered into in his fiduciary capacity in the course of administration of the trust, unless he fails to reveal his fiduciary capacity and identify the trust in the contract.

2. A trustee is individually liable for obligations arising from ownership or control of the trust assets or for torts committed in the course of administration of the trust only if he is personally at fault.

3. Claims based on contracts entered into by a trustee in his fiduciary capacity, on obligations arising from ownership or control of the trust assets, or on torts committed in the course of trust administration may be asserted against the trust by proceeding against the trustee in his fiduciary capacity, whether or not the trustee is individually liable therefor.

4. Issues of liability as between the trust and the trustee individually may be determined in a proceeding for accounting, surcharge or indemnification, or other appropriate proceeding.

5. A trustee who is a member of a partnership in his fiduciary capacity only is not individually liable for the obligations of the partnership but claims based upon such obligations may be asserted against the trust by proceeding against the trustee in his fiduciary capacity.]

[456.490. ACTS BY HOLDER OF GENERAL POWER. — For the purpose of granting consent or approval with regard to the acts or accounts of a trustee, including relief from liability or penalty for failure to post bond, or to perform other duties, and for purposes of consenting to modification or termination of a trust or to deviation from its terms, the sole holder or all coholders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act for beneficiaries to the extent their interests, as objects, takers in default, or otherwise, are subject to the power.]

[456.500. DEFINITIONS AS USED IN SECTIONS 456.500 TO 456.590. — As used in sections 456.500 to 456.600:

(1) "Prudent investor" means:

(a) In the case of decisions and actions taken before August 28, 1996, a trustee whose exercise of trust powers is reasonable and equitable in view of the interests of income or principal beneficiaries, or both, and in view of the manner in which men of ordinary prudence, diligence, discretion, and judgment would act in the management of the affairs of others; and

(b) In the case of decisions and actions taken on or after August 28, 1996, a trustee whose exercise of trust powers is in accordance with the provisions of the Missouri prudent investor act, sections 456.900 to 456.913;

(2) "Trust" means an express trust created by a trust instrument, including a will, whereby a trustee has the duty to administer a trust asset for the benefit of a named or otherwise described income or principal beneficiary, or both; "trust" does not include a resulting or constructive trust, a business trust which provides for certificates to be issued to the beneficiary, an investment trust,

a voting trust, a security instrument, a trust created by the judgment or decree of a court, a liquidation trust, or a trust for the primary purpose of paying dividends, interests, interest coupons, salaries, wages, pensions or profits, or employee benefits of any kind, an instrument wherein a person is nominee or escrowee for another, a trust created in deposits in any financial institution, or other trust the nature of which does not admit of general trust administration;

(3) "Trustee" means an original, added, or successor trustee.]

[456.510. POWERS OF TRUSTEE CONFERRED BY TRUST OR BY LAW. — 1. The trustee has all powers conferred upon him by the provisions of sections 456.500 to 456.600, unless limited by the trust instrument.

2. An instrument which is not a trust as defined in section 456.500 may incorporate any part of sections 456.500 to 456.600 by reference.]

[456.520. POWERS BY STATUTORY LAW. — 1. From time of creation of the trust until final distribution of the assets of the trust, a trustee has the power to perform, without court authorization, every act which a prudent investor would perform for the purposes of the trust including but not limited to the powers specified in subsection 3 of this section.

2. In the exercise of the trustee's powers including the powers granted by this chapter, a trustee has a duty to act with due regard to the trustee's obligation as a fiduciary.

3. A trustee has the power, subject to subsections 1 and 2 of this section:

(1) To collect, hold, and retain trust assets received from a trustor until, in the judgment of the trustee, disposition of the assets should be made; and the assets may be retained even though they include an asset in which the trustee is personally interested;

(2) To receive additions to the assets of the trust;

(3) To continue or participate in the operation of any business or other enterprise, and to effect incorporations, dissolution, or other change in the form of the organization of the business or enterprise;

(4) To acquire an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest;

(5) To invest and reinvest trust assets in accordance with the provisions of the trust or as provided by law;

(6) To deposit trust funds in savings and loan associations, credit unions and banks, including a bank operated by the trustee;

(7) To acquire or dispose of an asset, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or any interest therein; and to encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(8) To make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;

(9) To subdivide, develop, or dedicate land to public use; or to make or obtain the vacation of plats and adjust boundaries; or to adjust differences in valuation on exchange or partition by giving or receiving consideration; or to dedicate easements to public use without consideration;

(10) To enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the trust;

(11) To enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(12) To grant an option involving disposition of a trust asset, or to take an option for the acquisition of any asset;

(13) To vote a security, in person or by general or limited proxy;

(14) To pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(15) To sell or exercise stock subscription or conversion rights; directly or through a committee or other agent, to consent to or oppose the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(16) To hold a security in the name of a nominee or in other form without disclosure of the trust, so that title to the security may pass by delivery, but the trustee is liable for any act of the nominee in connection with the security so held;

(17) To insure the assets of the trust against damage or loss, and the trustee against liability with respect to third persons;

(18) To borrow money from any person including the trustee to be repaid from or secured by trust assets or otherwise; to advance money for the protection of the trust, and for all expenses, losses, and liability sustained in the administration of the trust or because of the holding or ownership of any trust assets, for which advances with any interest the trustee has a lien on the trust assets as against the beneficiary;

(19) To pay or contest any claim; to settle a claim by or against the trust by compromise, arbitration, or otherwise; and to release, in whole or in part, any claim belonging to the trust to the extent that the claim is uncollectible;

(20) To pay taxes, assessments, compensation of the trustee, and other expenses incurred in the collection, care, administration, and protection of the trust;

(21) To allocate items of income or expense to either trust income or principal, as provided by this chapter, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;

(22) To pay any sum distributable to a beneficiary under legal disability, without liability to the trustee, by paying the sum to the beneficiary or by paying the sum for the use of the beneficiary;

(23) To effect distribution of property and money in divided or undivided interests and to adjust resulting differences in valuation;

(24) To employ or contract with persons, including attorneys, accountants, investment advisors, or agents, even if they are associated or affiliated with the trustee, to provide brokerage investment products, administrative (whether or not discretionary), custodial or other account services to advise or assist the trustee in the performance of the trustee's administrative duties; to act without independent investigation upon their recommendations; or instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary;

(25) To prosecute or defend actions, claims, or proceedings for the protection of trust assets and of the trustee in the performance of the trustee's duties;

(26) To execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the trustee;

(27) To invest and reinvest trust assets in United States government obligations, either directly or in the form of securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered pursuant to the Investment Company Act of 1940, as amended, provided that the governing instrument or order directs, requires, authorizes, or permits investment in United States government obligations, and provided that the portfolio of such investment company or investment trust is limited to United States government obligations and to repurchase agreements fully collateralized by such obligations, and provided further that such investment company or investment trust shall take delivery of such collateral;

(28) To invest and reinvest trust assets in securities or obligations of any state or its political subdivisions, including securities or obligations that are underwritten by the trustee or an affiliate of the trustee or a syndicate in which the trustee or an affiliate of the trustee is a member which in addition to meeting the standards pursuant to subsections 1 and 2 of this section also meet the standards established by the division of finance pursuant to subsection 5 of section 362.550, RSMo;

(29) To divide any trust, before or after its initial funding, into two or more separate trusts, and to make payments or distributions that are authorized by or directed in the governing instrument from any one or more of such separate trusts.]

[456.524. TRUSTEES OF TESTAMENTARY AND INTER VIVOS TRUSTS ARE ENTITLED TO REASONABLE COMPENSATION. — 1. A trustee shall be entitled to reasonable compensation for services rendered. For purposes of this section, "reasonable compensation" may include fees that take into account the administration of both income and principal.

2. The provisions of this section shall apply to all testamentary and inter vivos trusts upon and after August 28, 1998, whether established before or after such date, and whether or not the will or trust instrument contains provisions relating to compensation of the trustee; provided that this section shall not apply to the extent of any inconsistency between the provisions of this section and the provisions of the will or trust instrument.]

[456.530. TRUSTEE'S OFFICE NOT TRANSFERABLE, EXCEPTION. — Unless otherwise permitted by law or the governing instrument, the trustee shall not transfer his office to another or delegate the entire administration of the trust to a cotrustee or another.]

[456.535. SOLE TRUSTEE'S POWER TO DISTRIBUTE PRINCIPAL OR INCOME FOR HIMSELF, LIMITATION, EXCEPTION — EFFECTIVE WHEN. — 1. Unless the terms of the trust refer to this section and provide otherwise, a power exercisable by or attributable to a person, other than the settlor, in such person's capacity as a trustee or because the person is deemed to have any power of a trustee, whether because such person has the right to remove or replace any trustee or because a reciprocal trust or power doctrine applies or otherwise, to make discretionary distribution of either principal or income:

(1) To or for the benefit of himself or herself shall be exercisable only for his or her health, education and support in his or her accustomed manner of living; or

(2) To or for the benefit of others shall not be exercisable to discharge any of his or her legal obligations.

2. The provisions of this section apply to any trust established before or after August 13, 1986.]

[456.540. POWERS EXERCISABLE BY JOINT TRUSTEES — LIABILITY. — 1. Any power vested in three or more trustees may be exercised by a majority, but a trustee who has not joined in exercising a power is not liable to the beneficiaries or to others for the consequences of the exercise; and a dissenting trustee is not liable for the consequences of an act in which he joins at the direction of the majority of the trustees, if he expressed his dissent in writing to any of his cotrustees at or before the time of the joinder.

2. If two or more trustees are appointed to perform a trust, and if any of them is unable or refuses to accept the appointment, or, having accepted, ceases to be a trustee, the surviving or remaining trustees shall perform the trust and succeed to all the powers, duties, and discretionary authority given to the trustees jointly.

3. This section does not excuse a cotrustee from liability for failure either to participate in the administration of the trust or to attempt to prevent a breach of trust.

4. Unless the terms of the trust refer to this subsection and provide otherwise, a power conferred upon two or more persons, none of whom is the settlor, in their capacity as trustees to make discretionary distribution of either principal or income to or for the benefit of one of them, cannot be exercised by such person, but it shall be exercisable by the trustee or trustees who are not so disqualified. The provisions of this subsection apply to any trust established before or after August 13, 1986.]

[456.550. SPECIAL DUTIES ASSIGNED BY TRUST TO ONE OR MORE OF SEVERAL TRUSTEES, EFFECT. — Unless the terms of the trust provide otherwise, when an instrument creating or amending the terms of a trust authorizes or directs one or more of several cotrustees or other persons to perform designated duties, other cotrustees are not under a duty to inquire into or participate in the performance of any such duties by the cotrustee or cotrustees or other persons authorized or directed to perform it alone in the absence of actual knowledge that the former is or are contemplating, committing or concealing a breach of trust.]

[456.560. THIRD PERSONS PROTECTED IN DEALING WITH TRUSTEES. — With respect to a third person dealing with a trustee or assisting a trustee in the conduct of a transaction, the existence of trust powers and their proper exercise by the trustee may be assumed without inquiry. The third person is not bound to inquire whether the trustee has power to act or is properly exercising the power; and a third person, without actual knowledge that the trustee is exceeding his powers or improperly exercising them, is fully protected in dealing with the trustee as if the trustee possessed and properly exercised the powers he purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the trustee.]

[456.570. POWER OF COURT TO REMOVE RESTRICTIONS OR TO APPROVE CONFLICT OF INTEREST. — 1. A court of competent jurisdiction for cause shown and upon petition of the trustee or affected beneficiary and upon appropriate notice to the affected parties may relieve a trustee from any restrictions on his power that would otherwise be placed upon him by the trust or by this chapter.

2. If the duty of the trustee and his individual interest or his interest as trustee of another trust, conflict in the exercise of a trust power, the power may be exercised only by court authorization, except as provided in subdivisions (1), (4), (6), (18), (24) and (28) of subsection 3 of section 456.520, upon petition of the trustee. Under this section, personal profit or advantage to an affiliated or subsidiary company or association is personal profit to any corporate trustee. The mere fact that the trustee is also the trustee of another trust or personal representative of an estate with which transactions are conducted does not, of and in itself, create a conflict of interest.]

[456.580. TRANSFER FREE OF FUTURE INTERESTS. — When a trustee or beneficial owner of a present estate in land is unable to convey or mortgage a merchantable title in fee simple, to give an indefeasible lease for ninety-nine years, or to make improvements to the land, because his estate is for life or in determinable or defeasible fee simple and such a conveyance, mortgage, lease or improvement is needed to assure a reasonable income, considering the market value of the land, a court of competent jurisdiction may and, unless it finds that the transaction will injure the holder or holders of a future interest in the land, shall, authorize the trustee or beneficial owner to convey or mortgage the fee simple, to give a lease for any period up to ninety-nine years or to make improvements. Any transaction so authorized shall be binding upon all persons with interests in the land. If sale is authorized, the proceeds shall be held in trust for the holders of present and future beneficial interests as their interests shall appear. If mortgage is authorized, the money borrowed shall be used to pay for improvements on the land; any surplus to be held upon trust as in the case of sale proceeds.]

[456.610. DEBTS OF DECEDENTS — NOTICE TO CREDITORS — FORM — PUBLICATION — EFFECT. — 1. Any trustee who has a duty or power to pay the debts of a decedent may publish a notice in some newspaper published in the county once a week for four consecutive weeks in substantially the following form:

To all persons interested in the estate of, decedent. The undersigned is acting as Trustee under a trust the terms of which provide that the debts of the decedent may be

paid by the Trustee(s) upon receipt of proper proof thereof. The address of the Trustee is All creditors of the decedent are noticed to present their claims to the undersigned within six (6) months from the date of the first publication of this notice or be forever barred.

.....

Trustee

2. If such publication is duly made by the trustee, any debts not presented to the trustee within six months from the date of the first publication of the aforesaid notice shall be forever barred as against the trustee and the trust property.]

[456.630. FRAUD, TRUST PROCEEDING, RELIEF, WHEN — FRAUD DEFINED — PARTY COMMITTING FRAUD, DEFINED — BANKRUPTCY FILED, RELIEF, WHEN — CERTAIN TRUSTS FOR BENEFIT OF EMPLOYEES, EXEMPT. —

1. Notwithstanding any provision of law to the contrary, whenever fraud has been perpetrated in connection with any proceeding under this chapter or if fraud is used to avoid or circumvent the provisions of purposes of this chapter, any person injured thereby may obtain appropriate relief against the perpetrator of the fraud, including restitution from any person, other than a bona fide purchaser, benefiting from the fraud, whether innocent or not. Any such proceeding must be commenced within two years after the discovery of the fraud but no proceeding may be brought against one not a perpetrator of the fraud later than ten years after the time of commission of the fraud. This section has no bearing on remedies relating to fraud practiced on a settlor during his lifetime which affects validity of a trust or succession to its assets.

2. For the purpose of subsections 2 to 4 of this section:

(1) "Fraud" includes the transfer of funds to any spendthrift trust, including a trust qualifying as a spendthrift trust under the provisions of section 456.072, where the party committing fraud transfers funds to the trust and such transfer is fraudulent as to a creditor of such party in that such party transferred such funds:

- (a) With intent to hinder, delay, or prevent the creditor from collecting a lawful debt;
- (b) When such party was, or shortly before he became, insolvent;
- (c) When such party was not paying his debts as they became due; or
- (d) While any creditor lawsuit was pending against such party;

(2) "Party committing fraud" includes any grantor, any person who makes a transfer to the trust, beneficiary, participant, or other similar party of the trust who makes use of a spendthrift trust to commit fraud or attempt to commit fraud against creditors.

3. In addition to any other remedies under subsection 1 of this section, any person injured by a party committing fraud may obtain appropriate relief against such party, where the fraud was committed within three years prior to filing a petition for relief under Title 11 of the United States Code, or three years prior to the discovery of such fraud. The action for fraud shall survive the death of the party committing fraud. Such action shall be limited by the earlier of the time period provided by section 456.610 or a one-year period after death.

4. Any spendthrift trust that otherwise qualifies as part of a plan or contract that is exempt under sections 401(a), 403(a), 403(b), and 409 of the Internal Revenue Code of 1986, as amended, where the funds contributed to such qualified plan or contract were contributed no less often than annually as a part of employee benefits, and including funds transferred under section 408 of such code permitting rollovers, when such funds were originally contributed to such qualified plan or contract no less often than annually as a part of employee benefits is exempt from subsections 2 to 4 of this section, provided such contributions were permitted by the Internal Revenue Code for the years in question.]

[456.670. SUPPLEMENT TO PROVISIONS. — Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.]

[461.300. BENEFICIARIES TO PAY, PRO RATA SHARE OF ALL PROPERTY RECEIVED TO COVER STATUTORY ALLOWANCES AND CLAIMS DUE ESTATE, ENFORCED BY ACTION FOR ACCOUNTING, TIME LIMITATION — ACTION AFFECT ON TRANSFERRING ENTITY. — 1. Each beneficiary who receives a nonprobate transfer of a decedent's property under sections 461.003 to 461.081 and each person who receives other property by a transfer other than from the administration of the decedent's probate estate that was subject to satisfaction of the decedent's debts immediately prior to the decedent's death, but only to the extent of the decedent's contribution to the value of such other property, shall be liable to account to the decedent's personal representative for a pro rata share of the value of all such property received, to the extent necessary to discharge the statutory allowances to the surviving spouse and unmarried minor children, and claims, remaining unpaid after application of the decedent's estate, including expenses of administration and costs as provided in subsection 3 of this section, and including estate or inheritance or other transfer taxes imposed by reason of the decedent's death only where payment of those taxes is a prerequisite to satisfying unpaid claims which have a lower level of priority. No proceeding may be brought under this section when the deficiency described in this subsection is solely attributable to costs and expenses of administration.

2. The obligation of a beneficiary of a nonprobate transfer or other recipient of property under subsection 1 of this section may be enforced by an action for accounting commenced within eighteen months following the decedent's death by the decedent's personal representative, a creditor of the decedent's estate, the decedent's surviving spouse or one acting for an unmarried minor child of the decedent, but no action for accounting under this section shall be commenced by any person unless the personal representative has received a written demand therefor by a creditor, surviving spouse or one acting for an unmarried minor child of the decedent. Sums recovered in an action for accounting under this section shall be administered by the personal representative as part of the decedent's estate except as provided in subsection 3 of this section.

3. The judgment in a proceeding authorized by this section shall take into account the expenses of administration of the estate including the cost of administering the additional assets obtained in the proceeding, and the costs of the proceeding to the extent authorized by this subsection. If the proceeding is commenced by a person other than the personal representative, the court may order the costs of the proceeding, other than attorney fees, to be charged against the amounts recovered and recoverable as a result of the proceeding. If the proceeding is commenced by the personal representative, the court may order the costs of the proceeding, including attorney fees, to be treated as expenses of administration of the estate.

4. After an action for accounting has been commenced under this section, any party to the proceeding may join and bring into the action for accounting other persons who are liable to account to the decedent's personal representative under subsection 1 of this section.

5. This section shall not affect the right of any transferring entity, as defined in section 461.005, to execute a direction of the decedent to make a payment or to make a nonprobate transfer or other transfer described in subsection 1 of this section on death of the decedent, or make the transferring entity liable to the decedent's estate, unless before the payment or transfer is made the transferring entity has been served with process in a proceeding brought under this section and the transferring entity has had a reasonable time to act on it.

6. This section does not create a lien on any property that is the subject of a nonprobate transfer or other property not subject to probate administration, except as a lien may be perfected by way of attachment, garnishment or judgment in an accounting proceeding authorized by this section.

7. An action for accounting under this section may be filed in the probate division of the circuit court, and the probate division of the circuit court may hear and determine questions and issue appropriate orders in an action for accounting under this section.

8. The recipient of any property held in trust that was subject to the satisfaction of the decedent's debts immediately prior to the decedent's death, and the recipient of any property held in joint tenancy with right of survivorship that was subject to the satisfaction of the decedent's

debts immediately prior to the decedent's death, are subject to this section, but only to the extent of the decedent's contribution to the value of the property.

9. This section shall apply to all actions commenced after August 28, 1995, except that with respect to decedents dying prior to August 28, 1995, an action for accounting under this section may be commenced within two years following the decedent's death.]

Approved July 9, 2004

HB 1529 [HCS HB 1529 & 1655]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires a minimum reimbursement for emergency services in a tax increment financing district.

AN ACT to amend chapter 99, RSMo, by adding thereto one new section relating to tax increment financing.

SECTION

A. Enacting clause.

99.848. Emergency services district, reimbursement from special allocation fund authorized, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 99, RSMo, is amended by adding thereto one new section, to be known as section 99.848, to read as follows:

99.848. EMERGENCY SERVICES DISTRICT, REIMBURSEMENT FROM SPECIAL ALLOCATION FUND AUTHORIZED, WHEN. — Notwithstanding subsection 1 of section 99.847, any district providing emergency services pursuant to chapter 190 or 321, RSMo, shall be entitled to reimbursement from the special allocation fund in the amount of at least fifty percent nor more than one hundred percent of the district's tax increment. This section shall not apply to tax increment financing projects or districts approved prior to the effective date of this section.

Approved July 2, 2004

HB 1548 [CCS SCS HB 1548]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires overtime pay for certain state employees.

AN ACT to repeal sections 105.055, 386.135, and 610.028, RSMo, and to enact in lieu thereof four new sections relating to state employees.

SECTION

A. Enacting clause.

- 105.055. State employee reporting mismanagement or violations of agencies, discipline of employee prohibited — appeal by employee from disciplinary actions, procedure — disciplinary action defined — violation, penalties — civil action, when.
- 105.935. Overtime hours, state employee may choose compensatory leave time, when — payment for overtime, when — reports on overtime paid.
- 386.135. Independent technical staff for commission authorized, qualifications — personal advisors permitted — corresponding elimination of positions required — duties of technical staff.
- 610.028. Legal defense of members of governmental bodies, when — written policy on release of information required — persons reporting violations exempt from liability and discipline.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 105.055, 386.135, and 610.028, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 105.055, 105.935, 386.135, and 610.028, to read as follows:

105.055. STATE EMPLOYEE REPORTING MISMANAGEMENT OR VIOLATIONS OF AGENCIES, DISCIPLINE OF EMPLOYEE PROHIBITED — APPEAL BY EMPLOYEE FROM DISCIPLINARY ACTIONS, PROCEDURE — DISCIPLINARY ACTION DEFINED — VIOLATION, PENALTIES — CIVIL ACTION, WHEN. — 1. No supervisor or appointing authority of any state agency shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature [or the], state auditor, **attorney general, or any state official or body charged with investigating such alleged misconduct.**

2. No supervisor or appointing authority of any state agency shall:

(1) Prohibit a state employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:

(a) A violation of any law, rule or regulation; or

(b) Mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law; or

(2) Require any such employee to give notice to the supervisor or appointing authority prior to making any such report.

3. This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative requests for information to the agency or the substance of testimony made, or to be made, by the employee to legislators on behalf of the employee to legislators on behalf of the agency;

(2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;

(3) Authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or

(4) Restricting or precluding disciplinary action taken against a state employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

4. As used in this section, "disciplinary action" means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, whether or not the withholding of work has affected or will affect the employee's compensation.

5. Any employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the state personnel advisory board; provided that the appeal shall be filed with the appropriate agency review board or body of nonmerit agency employers which have established appeal procedures substantially similar to those provided for merit employees in subsection 5 of section 36.390, RSMo. The appeal shall be filed within thirty days of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with chapter 36, RSMo. If the board or appropriate review body finds that disciplinary action taken was unreasonable, the board or appropriate review body shall modify or reverse the agency's action and order such relief for the employee as the board considers appropriate. If the board finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the board or appropriate review body in such cases may be appealed by any party pursuant to law.

6. Each state agency shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the agency.

7. (1) In addition to the remedies in subsection 6 of this section, a person who alleges a violation of this section may bring a civil action for damages within ninety days after the occurrence of the alleged violation.

(2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides.

(3) An employee must show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity.

(4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages, and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees.

105.935. OVERTIME HOURS, STATE EMPLOYEE MAY CHOOSE COMPENSATORY LEAVE TIME, WHEN — PAYMENT FOR OVERTIME, WHEN — REPORTS ON OVERTIME PAID. — 1. Any state employee who has accrued any overtime hours may choose to use those hours as compensatory leave time provided that the leave time is available and agreed upon by both the state employee and his or her supervisor.

2. A state employee who is a nonexempt employee pursuant to the provisions of the Fair Labor Standards Act shall be eligible for payment of overtime in accordance with subsection 4 of this section. A nonexempt state employee who works on a designated state holiday shall be granted equal compensatory time off duty or shall receive, at his or her choice, the employee's straight time hourly rate in cash payment. A nonexempt state employee shall be paid in cash for overtime unless the employee requests compensatory time off at the applicable overtime rate. As used in this section, the term "state employee" means any person who is employed by the state and earns a salary or wage in a position normally requiring the actual performance by him or her of duties on behalf of the state, but shall not include any employee who is exempt under the provisions of the Fair Labor Standards Act or any employee of the general assembly.

3. Beginning on January 1, 2006, and annually thereafter each department shall pay all nonexempt state employees in full for any overtime hours accrued during the previous calendar year which have not already been paid or used in the form of compensatory

leave time. All nonexempt state employees shall have the option of retaining up to a total of eighty compensatory time hours.

4. The provisions of subsection 2 of this section shall only apply to nonexempt state employees who are otherwise eligible for compensatory time under the Fair Labor Standards Act, excluding employees of the general assembly. Any nonexempt state employee requesting cash payment for overtime worked shall notify such employee's department in writing of such decision and state the number of hours, no less than twenty, for which payment is desired. The department shall pay the employee within the calendar quarter following the quarter in which a valid request is made. Nothing in this section shall be construed as creating a new compensatory benefit for state employees.

5. Each department shall, by November first of each year, notify the commissioner of administration, the house budget committee chair, and the senate appropriations committee chair of the amount of overtime paid in the previous fiscal year and an estimate of overtime to be paid in the current fiscal year. The fiscal year estimate for overtime pay to be paid by each department shall be designated as a separate line item in the appropriations bill for that department. The provisions of this subsection shall become effective July 1, 2005.

6. Each state department shall report quarterly to the house of representatives budget committee chair, the senate appropriations committee chair, and the commissioner of administration the cumulative number of accrued overtime hours for department employees, the dollar equivalent of such overtime hours, the number of authorized full-time equivalent positions and vacant positions, the amount of funds for any vacant positions which will be used to pay overtime compensation for employees with full-time equivalent positions, and the current balance in the department's personal service fund.

386.135. INDEPENDENT TECHNICAL STAFF FOR COMMISSION AUTHORIZED, QUALIFICATIONS — PERSONAL ADVISORS PERMITTED — CORRESPONDING ELIMINATION OF POSITIONS REQUIRED — DUTIES OF TECHNICAL STAFF. — 1. The commission shall have an independent technical advisory staff of up to six full-time employees. The advisory staff shall have expertise in accounting, economics, finance, engineering/utility operations, law, or public policy.

2. In addition, each commissioner shall also have the authority to retain one personal advisor, who shall be deemed a member of the technical advisory staff. The personal advisors will serve at the pleasure of the individual commissioner whom they serve and shall possess expertise in one or more of the following fields: accounting, economics, finance, engineering/utility operations, law, or public policy.

3. The commission shall only hire technical advisory staff pursuant to subsections 1 and 2 of this section if there is a corresponding elimination in comparable staff positions for commission staff to offset the hiring of such technical advisory staff on a cost-neutral basis. Such technical advisory staff shall be hired on or before July 1, 2005.

4. It shall be the duty of the technical advisory staff to render advice and assistance to the commissioners and the commission's [hearing officers] **administrative law judges** on technical matters within their respective areas of expertise that may arise during the course of proceedings before the commission.

5. The technical advisory staff shall also update the commission and the commission's [hearing officers] **administrative law judges** periodically on developments and trends in public utility regulation, including updates comparing the use, nature, and effect of various regulatory practices and procedures as employed by the commission and public utility commissions in other jurisdictions.

6. Each member of the technical advisory staff shall be subject to any applicable ex parte or conflict of interest requirements in the same manner and to the same degree as any commissioner, provided that neither any person regulated by, appearing before, or employed by

the commission shall be permitted to offer such member a different appointment or position during that member's tenure on the technical advisory staff.

7. No employee of a company or corporation regulated by the public service commission, no employee of the office of public counsel or the public counsel, and no staff members of either the utility operations division or utility services division who were an employee or staff member on, during the two years immediately preceding, or anytime after August 28, 2003, may be a member of the commission's technical advisory staff for two years following the termination of their employment with the corporation, office of public counsel or commission staff member.

8. The technical advisory staff shall never be a party to any case before the commission.

610.028. LEGAL DEFENSE OF MEMBERS OF GOVERNMENTAL BODIES, WHEN — WRITTEN POLICY ON RELEASE OF INFORMATION REQUIRED — PERSONS REPORTING VIOLATIONS EXEMPT FROM LIABILITY AND DISCIPLINE. — 1. Any public governmental body may provide for the legal defense of any member charged with a violation of sections 610.010 to 610.030.

2. Each public governmental body shall provide a reasonable written policy in compliance with sections 610.010 to 610.030, open to public inspection, regarding the release of information on any meeting, record or vote and any member or employee of the public governmental body who complies with the written policy is not guilty of a violation of the provisions of sections 610.010 to 610.030 or subject to civil liability for any act arising out of his adherence to the written policy of the agency.

3. No person who in good faith reports a violation of the provisions of sections 610.010 to 610.030 is civilly liable for making such report, nor, if such person is an officer or employee of a public governmental body, may such person be demoted, fired, suspended, or otherwise disciplined for making such report.

Approved June 8, 2004

HB 1599 [SCS HS HB 1599]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Joint Committee on Government Accountability to make a continuing study and analysis of inefficiencies in state government.

AN ACT to repeal section 8.235, RSMo, and to enact in lieu thereof three new sections relating to a joint committee on government accountability.

SECTION

- A. Enacting clause.
- 8.235. Office of administration to contract for guaranteed energy cost savings contracts by bid, criteria — use of funds by governmental units — procurement implementation date.
- 8.237. Office of administration to develop statewide plan of energy conservation and cost savings, state buildings and facilities — requirements — moneys to be used.
- 21.820. Joint committee on government accountability established, members, duties, meetings, staff, report.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 8.235, RSMo, is repealed and three new sections enacted in lieu thereof to be known as sections 8.235, 8.237, and 21.820, to read as follows:

8.235. OFFICE OF ADMINISTRATION TO CONTRACT FOR GUARANTEED ENERGY COST SAVINGS CONTRACTS BY BID, CRITERIA — USE OF FUNDS BY GOVERNMENTAL UNITS — PROCUREMENT IMPLEMENTATION DATE. — 1. Notwithstanding subsection 3 of section 8.231 and section 34.040, RSMo, the [division of design and construction] **office of administration** is hereby authorized to contract for guaranteed energy cost savings contracts by selecting a bid for proposal from a contractor or team of contractors using the following criteria:

(1) The specialized experience and technical competence of the firm or team with respect to the type of services required;

(2) The capacity and capability of the firm or team to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project. **The scope of work identified in the report of energy audit findings shall be developed and executed in a manner that best meets the needs of the governmental unit. For the purposes of this section and section 8.237, RSMo, "best meets the needs of governmental unit" means, but is not limited to, on a cost effective and timely basis but not otherwise inconsistent with the provisions provided herein; and**

(3) The past record of performance of the firm or team with respect to such factors as control of costs, quality of work and ability to meet schedules.

2. [Each guaranteed energy cost saving contract, authorized pursuant to this section, shall reduce the estimated energy consumption by a minimum of twelve percent or reduce the cost of energy and related savings by a minimum of twelve percent.

3.] The guaranteed energy cost saving contract shall otherwise be in accordance with the provisions of section 8.231.

[4. The division of design and construction is authorized to use this procurement process for eight projects.]

3. Other state governmental units may procure these services in accordance with section 8.235.

4. A governmental unit may use designated funds, bonds, or master lease for any guaranteed energy cost savings contract including purchases using installment payment contracts or lease purchase agreements, so long as that use is consistent with the purpose of the appropriation.

5. Other state governmental units shall participate in the procurement of these services, in accordance with sections 8.231 and 8.237 with implementation beginning on or prior to June 1, 2006.

8.237. OFFICE OF ADMINISTRATION TO DEVELOP STATEWIDE PLAN OF ENERGY CONSERVATION AND COST SAVINGS, STATE BUILDINGS AND FACILITIES — REQUIREMENTS — MONEYS TO BE USED. — 1. The office of administration shall develop a statewide plan of energy conservation and cost savings for the buildings and facilities of the state. The plan shall be designed to implement energy conservation and cost savings on a cost effective basis. The office of administration shall divide the buildings and facilities of the state by its administrative agencies such that numerous qualified providers of varying capacity shall be eligible to submit requests for proposals or request for qualifications. The office of administration shall give preference to Missouri companies as provided for in sections 34.070 and 34.073, RSMo and relevant executive orders. Prior to the office of administration entering into such contract, it shall solicit sealed proposals from entities that best meet the needs of the governmental unit. Each governmental unit, as defined in section 8.231, prior to entering into a contract for the implementation of any significant energy conservation or facility improvement measure identified by the office of administration, shall meet the following requirements:

(1) Obtain a report of energy audit findings from the entity providing the energy conservation measures containing recommendations concerning the costs of installation, modifications, or remodeling, including costs of design, engineering, repairs, and financing; and

(2) The proposal shall guarantee to such governmental unit an amount of cost savings in energy or operating costs, as defined in section 8.231 if such installation, modification, or remodeling is performed by that entity.

2. For purposes of this section, "energy conservation and facility improvement measure" designed to reduce energy consumption, as defined in section 8.231 includes, but is not limited to, automated or computerized energy control and facility management systems or computerized maintenance management systems, replacement or modification of lighting fixtures and systems, energy recovery systems, water conservation, cogeneration systems, and window and door system modifications.

3. The entity shall contractually guarantee energy savings as appropriate and in a manner that meets the needs of the governmental unit.

4. With regard to energy cost savings in section 8.235 and this section, subject to appropriations, funding may be provided by the office of administration's revolving administrative trust fund, general revenue, or other appropriate fund source.

21.820. JOINT COMMITTEE ON GOVERNMENT ACCOUNTABILITY ESTABLISHED, MEMBERS, DUTIES, MEETINGS, STAFF, REPORT. — 1. There is established a joint committee of the general assembly to be known as the "Joint Committee on Government Accountability" to be composed of seven members of the senate and seven members of the house of representatives. The senate members of the joint committee shall be appointed by the president pro tem and minority floor leader of the senate and the house members shall be appointed by the speaker and minority floor leader of the house of representatives. Each member shall be appointed for a term of two years or until a successor has been appointed to fill the member's place when his or her term has expired. Members may be reappointed to the joint committee. No party shall be represented by more than four members from the house of representatives nor more than four members from the senate. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members shall be required for the determination of any matter within the committee's duties.

2. The joint committee shall:

(1) Make a continuing study and analysis of inefficiencies, fraud and misconduct in state government;

(2) Determine the appropriate method of obtaining data on each entity of state government that will provide relevant information at least biennially for the identification of potential and actual inefficiencies in each state entity's function, duties, and performance;

(3) Determine from its study and analysis the need for changes in statutory law, rules, or policies; and

(4) Make any other recommendation to the general assembly necessary to reduce inefficiencies in state government;

(5) Identify and acknowledge government agencies and officials who perform functions in an efficient and effective manner.

3. The joint committee shall meet within thirty days after its creation and organize by selecting a chairperson and a vice chairperson, one of whom shall be a member of the senate and the other a member of the house of representatives. The chairperson shall alternate between members of the house and senate every two years after the committee's organization.

4. The committee shall meet at least four times a year. The committee may meet at locations other than Jefferson City when the committee deems it necessary.

5. The committee shall be staffed by legislative personnel as is deemed necessary to assist the committee in the performance of its duties.

6. The members of the committee shall serve without compensation but shall be entitled to reimbursement from the joint contingent fund for actual and necessary expenses incurred in the performance of their official duties.

7. It shall be the duty of the committee to compile a full report of its activities for submission to the general assembly. The report shall be submitted not later than the fifteenth of January of each year in which the general assembly convenes in regular session and shall include any recommendations which the committee may have for legislative action as well as any recommendations for administrative or procedural changes in the internal management or organization of state government agencies and departments. Copies of the report containing such recommendations shall be sent to the appropriate directors of state or local government agencies or departments included in the report.

Approved July 2, 2004

HB 1603 [HB 1603]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Reenacts and authorizes the republication of section 135.766 (Tax Credit for Small Business Guaranty Fees).

AN ACT to reenact section 135.766 as repealed by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session for the sole purpose of the republication of 135.766.

SECTION

A. Enacting clause.

135.766. Tax credit for guaranty fee paid by small businesses, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 135.766 as repealed by conference committee substitute for house substitute for house committee substitute for senate committee substitute for senate bill no. 894, ninetieth general assembly, second regular session, is reenacted, to read as follows:

135.766. TAX CREDIT FOR GUARANTY FEE PAID BY SMALL BUSINESSES, WHEN. — An eligible small business, as defined in Section 44 of the Internal Revenue Code, shall be allowed a credit against the tax otherwise due pursuant to chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, in an amount equal to any amount paid by the eligible small business to the United States Small Business Administration as a guaranty fee pursuant to obtaining Small Business Administration guaranteed financing and to programs administered by the United States Department of Agriculture for rural development or farm service agencies.

Approved June 21, 2004

**HB 1613 [SCS HB 1613 AND HB 1445 AND HB 1454 AND HB 1462 AND
HCS HB 1471 AND HB 1608 AND HB 1612 AND HB 1635]**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the conveyance of various state property.

AN ACT to authorize the conveyance of property, with an emergency clause for a certain section.

SECTION

1. Southwest Missouri State University authorized to convey property along South Scenic Avenue in Springfield.
2. Governor authorized to convey the National Guard Armory located in Stoddard County to the city of Dexter.
3. Governor authorized to convey the National Guard Armory located in Pemiscot County to the city of Caruthersville.
4. Governor authorized to convey the National Guard Armory located in Stoddard County to the city of Bernie.
5. Governor authorized to convey the Felix Building and gated parking lot located in Jackson County to the Truman Medical Center.
6. Governor authorized to convey the Highlands II located in Jackson County.
7. Governor authorized to convey certain property located in Marion County to the city of Hannibal.
8. Governor authorized to convey the Highlands I located in Jackson County.
 - A. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. SOUTHWEST MISSOURI STATE UNIVERSITY AUTHORIZED TO CONVEY PROPERTY ALONG SOUTH SCENIC AVENUE IN SPRINGFIELD. — 1. The board of governors of Southwest Missouri State University is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the board of governors in the county of Greene. The property to be conveyed, along South Scenic Avenue in the city of Springfield, is more particularly described as follows:

Beginning at the southwest corner of the northwest quarter of the southwest quarter (NW1/4 SW1/4) of Section 34, Township 29N, Range 22W, thence north 3,400 feet, thence East 650 feet, thence southwesterly to a point 200 feet east of the beginning point, thence west to the beginning, consisting of approximately 25 acres.

2. Consideration for the conveyance shall be as negotiated by the board of governors and the purchaser of the property.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY THE NATIONAL GUARD ARMORY LOCATED IN STODDARD COUNTY TO THE CITY OF DEXTER. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property used as a National Guard Armory and owned by the state in the county of Stoddard to the city of Dexter. The property to be conveyed is more particularly described as follows:

All of the south one hundred sixty five (165) feet of Block Fourteen (14) of the original town of Dexter, Stoddard County, Missouri.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY THE NATIONAL GUARD ARMORY LOCATED IN PEMISCOT COUNTY TO THE CITY OF CARUTHERSVILLE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property used as a National Guard Armory and owned by the state in the county of Pemiscot to the city of Caruthersville. The property to be conveyed is more particularly described as follows:

A part of the Northwest Quarter of the Southwest Quarter of Fractional Section Sixteen (16), in Township Eighteen (18) North, of Range Thirteen (13) East, described by metes and bounds as follows:

Commencing at the most Northern corner of Block Eight (8) of Stephen's Addition to the City of Caruthersville; thence North 55° 06' West 50 feet; thence South 34° 54' West 10 feet to the place of beginning; thence continue South 34° 54' West 200 feet; thence North 55° 06' West 150 feet; thence North 34° 54' East 200 feet; thence South 55° 06' East 150 feet to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO CONVEY THE NATIONAL GUARD ARMORY LOCATED IN STODDARD COUNTY TO THE CITY OF BERNIE. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property used as a National Guard Armory and owned by the state in the county of Stoddard to the city of Bernie. The property to be conveyed is more particularly described as follows:

All that part of the northwest quarter of the southwest quarter of Section Three (3), Township Twenty-three (23) north, Range Ten (10) east described by metes and bounds as follows:

Beginning at a point twenty-five (25) feet west of and six hundred thirty four and five tenths (634.5) feet south no degrees and forty three minutes west of the northeast corner of the northwest quarter of the southwest quarter of Section Three (3) aforesaid; thence south no degrees and forty three minutes west two hundred forty-eight (248) feet; thence west four hundred thirty nine and eighty five hundredths (439.85) feet; thence north two hundred forty-eight (248) feet; thence east four hundred forty-three (443) feet to the point of beginning and containing 2.513 acres, more or less, and being a part of the northwest quarter of the southwest quarter of Section Three (3) aforesaid.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO CONVEY THE FELIX BUILDING AND GATED PARKING LOT LOCATED IN JACKSON COUNTY TO THE TRUMAN MEDICAL CENTER. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the county of Jackson known as the Felix Building and the gated parking lot to the Truman Medical Center. The property to be conveyed is more particularly described as follows:

THE PROPERTY KNOWN AS THE FELIX BUILDING:

Lots 1, 2, 3, 4, 5, 6, 7, and 8 and the West 7.5 feet of Lot 9 and Lots 24, 25, 26, 27, and 28, together with the West 162.5 feet of the alley between Charlotte Street and Campbell Street next South of 22nd Street lying North of and adjacent to

said Lot 24, GRANDVIEW SUBDIVISION OF BLOCK 11, BOUTON'S ADDITION, a Subdivision in Kansas City, Jackson County, Missouri, according to the recorded plat thereof; and

THE PROPERTY KNOWN AS THE GATED PARKING LOT:

All of lots 25, 26, and 27, except part in alley, HOME PARK, all of Block 5 BOUTON'S ADDITION, except part in alley, together with that part of the South half of 21st Street, as said Street was vacated by Ordinance No. 21525, passed May 17, 1957, from the East line of the North-South alley next West of Charlotte Street to the West line of Charlotte Street lying North of and adjoining Block 5, BOUTON'S ADDITION, both subdivisions in Kansas City, Jackson County, Missouri, said part being described as follows:

The South 15 feet of the South half of said vacated 21st Street.

Subject to restrictions, easements, covenants, and reservations now of record but including all the underlying fee title owned by Grantor to streets and alleys adjoining the described land.

2. The sale price of the property shall be one million dollars. The commissioner of administration shall set the terms and conditions for the sale or transfer as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the sale. All costs and fees directly related to the sale shall be paid from the proceeds of the sale. All proceeds from the sale in excess of the costs shall be used to assist in the funding of the construction, repair, or maintenance of state facilities.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO CONVEY THE HIGHLANDS II LOCATED IN JACKSON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quit claim all interest of the state of Missouri in real property known as Highlands II and more particularly described as follows:

Part of the Southeast 1/4 of Section 34, Township 50, Range 32, described as follows:

Beginning at a point 310 feet West and 25 feet South of the Northeast corner of said quarter section, thence South 200 feet; thence West 150 feet; thence North 200 feet; thence East 150 feet to the point of beginning in Independence, Jackson County, Missouri.

2. The commissioner of administration is directed to conduct a public sale of the property by public bid, public auction, or through commercial real estate listing. The commissioner shall set the terms of the sale, including whether appraisals are required and whether a minimum acceptable bid shall be established. All costs of the sale shall be paid from the sale proceeds.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO CONVEY CERTAIN PROPERTY LOCATED IN MARION COUNTY TO THE CITY OF HANNIBAL. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the county of Marion to the city of Hannibal. The property to be conveyed is more particularly described as follows:

Parts of Outlot Forty-four (44) and the right-of-way of the South Fifth Street (abandoned), in the City of Hannibal, Missouri, more fully described as follows, to-wit:

Begin at a point on the South side of Collier Street, said point being Twenty-seven (27.0) feet West of the West line of Outlot Forty-four (44) in the City of Hannibal; thence proceed in a Southerly direction parallel to said West

Line of Outlot forty-four (44) for a distance of Sixty-one and 5/10 (61.5) feet; thence proceed in an Easterly direction parallel to the South line of Collier Street for a distance of Two Hundred (200.0) feet; thence in a Northerly direction for a distance of Sixty-one and 5/10 (61.5) feet parallel to the aforementioned West line of Outlot Forty-four (44) to a point on the South line of Collier Street; thence in a westerly direction along said South line of Collier Street for a distance of Two Hundred (200.0) feet to the point of beginning.

Together with an easement of of right-of-way for the purpose of gaining ingress and egress to said lands over and along the North Sixteen (16) feet of the property now owned by the City and designated as Clemens Field, lying on the South Side of Collier Street, from the East line of the above described tract granted to the State of Missouri, to the gate in the wall of said Clemens Field, which is located in Fourth Street.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 8. GOVERNOR AUTHORIZED TO CONVEY THE HIGHLANDS I LOCATED IN JACKSON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quit claim all interest of the state of Missouri in real property known as Highlands I and more particularly described as follows:

Part of the Southeast 1/4 of Section 34, Township 50, Range 32, described as follows:

Beginning at the Northeast corner of the said described 1/4 Section, thence West 1436.33 feet to the easterly Right of Way of River Boulevard thence South along the said easterly Right of Way line 182 feet to the true point of beginning; thence East 158.98 feet; thence South 190 feet; thence West 158.98 feet to a point on the east Right of Way line of River Boulevard; thence North 190 feet to the true point of beginning in Independence, Jackson County, Missouri.

2. The commissioner of administration is directed to conduct a public sale of the property by public bid, public auction, or through commercial real estate listing. The commissioner shall set the terms of the sale, including whether appraisals are required and whether a minimum acceptable bid shall be established. All costs of the sale shall be paid from the sale proceeds.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to authorize the board of governors of Southwestern Missouri State University to convey the real property and to receive the proceeds from the conveyance, section 1 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 1 of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2004

HB 1616 [HB 1616]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises requirements for publishing of administrative rules.

AN ACT to repeal sections 536.015, 536.021, 536.023, and 536.031, RSMo, and to enact in lieu thereof four new sections relating to the publication of administrative rules.

SECTION

- A. Enacting clause.
- 536.015. Missouri Register published at least monthly.
- 536.021. Rules, procedure for making, amending or rescinding — notice of — rules effective when, exception — effective date to be printed in code of state regulations — failure of agencies to promulgate a required rule — effect — exception — letter ruling authorized for department of revenue, effect.
- 536.023. Procedures for numbering, indexing and publishing to be prescribed by secretary of state.
- 536.031. Code to be published — to be revised monthly — incorporation by reference authorized, courts to take judicial notice — incorporation by reference of certain rules, how.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 536.015, 536.021, 536.023, and 536.031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 536.015, 536.021, 536.023, and 536.031, to read as follows:

536.015. MISSOURI REGISTER PUBLISHED AT LEAST MONTHLY. — There is established a publication to be known as the "Missouri Register", which shall be published **in a format and medium as prescribed by the secretary of state and in writing upon request** no less frequently than monthly by the secretary of state.

536.021. RULES, PROCEDURE FOR MAKING, AMENDING OR RESCINDING — NOTICE OF — RULES EFFECTIVE WHEN, EXCEPTION — EFFECTIVE DATE TO BE PRINTED IN CODE OF STATE REGULATIONS — FAILURE OF AGENCIES TO PROMULGATE A REQUIRED RULE — EFFECT — EXCEPTION — LETTER RULING AUTHORIZED FOR DEPARTMENT OF REVENUE, EFFECT. — 1. No rule shall hereafter be proposed, adopted, amended or rescinded by any state agency unless such agency shall first file with the secretary of state a notice of proposed rulemaking and a subsequent final order of rulemaking, both of which shall be published in the Missouri Register by the secretary of state as soon as practicable after the filing thereof in that office; except that a notice of proposed rulemaking is not required for the establishment of hunting or fishing seasons and limits or for the establishment of state program plans required under federal education acts or regulations. The secretary of state shall not publish any proposed rulemaking or final order of rulemaking that has not fully complied with the provisions of section 536.024 or an executive order, whichever appropriately applies. If the joint committee on administrative rules disapproves any proposed order of rulemaking, final order of rulemaking or portion thereof, the committee shall report its finding to the house of representatives and the senate. No proposed order of rulemaking, final order of rulemaking or portion thereof shall take effect, or be published by the secretary of state, so long as the general assembly shall disapprove such by concurrent resolution pursuant to article IV, section 8 within thirty legislative days occurring during the same regular session of the general assembly. The secretary of state shall not publish any order, or portion thereof, that is the subject of a concurrent resolution until the expiration of time necessary to comply with the provisions of article III, section 32.

2. A notice of proposed rulemaking shall contain:

- (1) An explanation of any proposed rule or any change in an existing rule, and the reasons therefor;
 - (2) The legal authority upon which the proposed rule is based;
 - (3) The text of the entire proposed rule or the entire text of any affected section or subsection of an existing rule which is proposed to be amended, with all new matter [underlined or] printed in boldface type and with all deleted matter placed in brackets, except that when a
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proposed rule consists of material so extensive that the publication thereof would be unduly cumbersome or expensive, the secretary of state need publish only a summary and description of the substance of the proposed rule so long as a complete copy of the rule is made immediately available to any interested person upon application to the adopting state agency at a cost not to exceed the actual cost of reproduction. A proposed rule may incorporate by reference only if the material so incorporated is retained at the headquarters of the state agency and made available to any interested person at a cost not to exceed the actual cost of the reproduction of a copy. When a proposed amendment to an existing rule is to correct a typographical or printing error, or merely to make a technical change not affecting substantive matters, the amendment may be described in general terms without reprinting the entire existing rule, section or subsection;

(4) The number and general subject matter of any existing rule proposed to be rescinded;

(5) Notice that anyone may file a statement in support of or in opposition to the proposed rulemaking at a specified place and within a specified time not less than thirty days after publication of the notice of proposed rulemaking in the Missouri Register; and

(6) Notice of the time and place of a hearing on the proposed rulemaking if a hearing is ordered, which hearing shall be not less than thirty days after publication of the notice of proposed rulemaking in the Missouri Register; or a statement that no hearing has been ordered if such is the case.

3. Any state agency issuing a notice of proposed rulemaking may order a hearing thereon, but no such hearing shall be necessary unless otherwise required by law.

4. Any state agency which has issued in the Missouri Register a notice of proposed rulemaking to be made without a hearing, but which thereafter concludes that a hearing is desirable, shall withdraw the earlier notice and file a new notice of proposed rulemaking which fully complies with the provisions of subdivision (6) of subsection 2 of this section, and the state agency shall not schedule the hearing for a time less than thirty days following the publication of the new notice.

5. Within ninety days after the expiration of the time for filing statements in support of or in opposition to the proposed rulemaking, or within ninety days after the hearing on such proposed rulemaking if a hearing is held thereon, the state agency proposing the rule shall file with the secretary of state a final order of rulemaking either adopting the proposed rule, with or without further changes, or withdrawing the proposed rule, which order of rulemaking shall be published in the Missouri Register. Such ninety days shall be tolled for the time period any rule is held under abeyance pursuant to an executive order. If the state agency fails to file the order of rulemaking as indicated in this subsection, the proposed rule shall lapse and shall be null, void and unenforceable.

6. The final order of rulemaking shall contain:

(1) Reference to the date and page or pages where the notice of proposed rulemaking was published in the Missouri Register;

(2) An explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change;

(3) The full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking;

(4) A brief summary of the general nature and extent of comments submitted in support of or in opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with said rulemaking, together with a concise summary of the state agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule; and

(5) The legal authority upon which the order of rulemaking is based.

7. Except as provided in section 536.025, any rule, or amendment or rescission thereof, shall be null, void and unenforceable unless made in accordance with the provisions of this section.

8. Except as provided in subsection 1 of this section[, all orders of rulemaking] **and subsection 4 of section 536.031, after the final order of rulemaking has been published in the Missouri Register, the text of the entire rule** shall be published in full in the Missouri code of state regulations. No rule, except an emergency rule, shall become effective prior to the thirtieth day after the date of publication of the revision to the Missouri code of state regulations. The secretary of state shall distribute revisions of the Missouri code of state regulations to all subscribers of the Missouri code of state regulations on or before the date of publication of such revision. The publication date of each rule shall be printed below the rule in the Missouri code of state regulations, provided further, that rules pertaining to changes in hunting or fishing seasons and limits that must comply with federal requirements or that are necessary because of documented changes in fish and game populations may become effective no earlier than on the tenth day after the filing of the final order of rulemaking.

9. If it is found in a contested case by an administrative or judicial fact finder that a state agency's action was based upon a statement of general applicability which should have been adopted as a rule, as required by sections 536.010 to 536.050, and that agency was put on notice in writing of such deficiency prior to the administrative or judicial hearing on such matter, then the administrative or judicial fact finder shall award the prevailing nonstate agency party its reasonable attorney's fees incurred prior to the award, not to exceed the amount in controversy in the original action. This award shall constitute a reviewable order. If a state agency in a contested case grants the relief sought by the nonstate party prior to a finding by an administrative or judicial fact finder that the agency's action was based on a statement of general applicability which should have been adopted as a rule, but was not, then the affected party may bring an action in the circuit court of Cole County for the nonstate party's reasonable attorney's fees incurred prior to the relief being granted, not to exceed the amount in controversy in the original action.

10. The actions authorized by subsection 9 of this section shall not apply to the department of revenue if that department implements the authorization hereby granted to the director or the director's duly authorized agents to issue letter rulings which shall bind the director or the director's agents and their successors for a minimum of three years, subject to the terms and conditions set forth in properly published regulations. An unfavorable letter ruling shall not bind the applicant and shall not be appealable to any forum. Subject to appropriations, letter rulings shall be published periodically with information identifying the taxpayer deleted. For the purposes of this subsection, the term "letter ruling" means a written interpretation of law by the director to a specific set of facts provided by a nonstate party.

536.023. PROCEDURES FOR NUMBERING, INDEXING AND PUBLISHING TO BE PRESCRIBED BY SECRETARY OF STATE. — 1. The secretary of state shall prescribe in [writing] **a format and medium as prescribed by the secretary of state and in writing upon request** uniform procedures for the numbering, indexing, form and publication of all rules, notices of proposed rulemaking and orders of rulemaking. Copies of the procedures shall be furnished by the secretary of state to each state agency and copies thereof shall be permanently maintained in the office of the secretary of state and shall be available for public inspection at all reasonable times.

2. No rule, notice of proposed rulemaking or final order of rulemaking shall be accepted for filing with the secretary of state unless it conforms to said uniform procedures.

3. Each state agency shall adopt as a rule a description of its organization and general courses and methods of its operation and the methods and procedures whereby the public may obtain information or make submissions or requests. Substantial changes in any matter covered by the foregoing description shall be made only in accordance with the procedures set forth in this chapter.

536.031. CODE TO BE PUBLISHED — TO BE REVISED MONTHLY — INCORPORATION BY REFERENCE AUTHORIZED, COURTS TO TAKE JUDICIAL NOTICE — INCORPORATION BY

REFERENCE OF CERTAIN RULES, HOW. — 1. There is established a publication to be known as the "Code of State Regulations", which shall be published **in a format and medium as prescribed and in writing upon request** by the secretary of state as soon as practicable after ninety days following January 1, 1976, and may be republished from time to time thereafter as determined by the secretary of state.

2. The code of state regulations shall contain the full text of all rules of state agencies in force and effect upon the effective date of the first publication thereof, and effective September 1, 1990, it shall be revised no less frequently than monthly thereafter so as to include all rules of state agencies subsequently made, amended or rescinded. The code may also include citations, references, or annotations, prepared by the state agency adopting the rule or by the secretary of state, to any intraagency ruling, attorney general's opinion, determination, decisions, order, or other action of the administrative hearing commission, or any determination, decision, order, or other action of a court interpreting, applying, discussing, distinguishing, or otherwise affecting any rule published in the code.

3. The code of state regulations shall be published in looseleaf form in one or more volumes **upon request and a format and medium as prescribed by the secretary of state** with an appropriate index [and cover], and revisions in the text and index may be made by [printing additional pages for insertion in the looseleaf cover] **the secretary of state as necessary and provided in written format upon request.**

4. **An agency may incorporate by reference rules, regulations, standards, and guidelines of an agency of the United States or a nationally or state recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date in order to specify how a copy of the material may be obtained, and shall state that the referenced rule, regulation, standard, or guideline does not include any later amendments or additions. The agency adopting a rule, regulation, standard, or guideline under this section shall maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of the agency and shall make it available to the public for inspection and copying at no more than the actual cost of reproduction.** The secretary of state may omit from the code of state regulations [such rules and] such material incorporated by reference in any rule the publication of which would be unduly cumbersome or expensive[, provided that the full text of such rule or the full text of the material incorporated by reference is made available to any interested person at both the office of the secretary of state and the office of the adopting state agency, and copies thereof made available to any interested party at a cost not to exceed the actual cost of copy reproduction].

5. The courts of this state shall take judicial notice, without proof, of the contents of the code of state regulations.

Approved July 2, 2004

HB 1617 [CCS HCS HB 1617]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes it unlawful to destroy evidence pertaining to securities proceedings, sets out penalties, and empowers securities commissioner to promulgate rules.

AN ACT to amend chapter 409, RSMo, by adding thereto six new sections relating to obstruction of securities investigations, with penalty provisions.

SECTION

- A. Enacting clause.
- 409.108. Tampering with securities documents or impeding investigations prohibited.
- 409.109. Penalty.
- 409.111. Commissioner of securities may investigate violations.
- 409.112. Commissioner of securities may seek relief for violations, when.
- 409.113. Commissioner of securities may issue orders, when.
- 409.114. Duties and powers of commissioner of securities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 409, RSMo, is amended by adding thereto six new sections, to be known as sections 409.108, 409.109, 409.111, 409.112, 409.113, and 409.114, to read as follows:

409.108. TAMPERING WITH SECURITIES DOCUMENTS OR IMPEDING INVESTIGATIONS PROHIBITED. — It is unlawful for any person, in any investigation or other proceeding under this chapter, to alter, destroy, mutilate, conceal, make a false entry in, or by any means falsify, remove from any place or withhold any record, document, or tangible, electronic or physical evidence with the intent to impede, obstruct, avoid, evade, or influence the official investigation or administration of any other proceeding under this chapter.

409.109. PENALTY. — A person who willfully violates section 409.108, shall upon conviction be fined not more than five hundred thousand dollars or imprisoned not more than ten years, or both. The proper prosecuting attorney with or without a criminal reference from the commissioner, or the attorney general under section 27.030, RSMo, may institute criminal proceedings under this section.

409.111. COMMISSIONER OF SECURITIES MAY INVESTIGATE VIOLATIONS. — The commissioner of securities may conduct pursuant to the authorization of section 409.6-602 such investigations as the commissioner considers necessary to determine whether a person has violated, is violating, or is about to violate any provision of sections 409.108 to 409.114 or any order, rule or regulation issued pursuant thereto.

409.112. COMMISSIONER OF SECURITIES MAY SEEK RELIEF FOR VIOLATIONS, WHEN. — If the commissioner believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of sections 409.108 to 409.114, or any order, rule or regulation issued pursuant thereto or that a person has, is, or is about to engage in an act, practice, or course of business that materially aids a violation of sections 409.108 to 409.114, the commissioner may maintain an action for relief authorized pursuant to section 409.6-603.

409.113. COMMISSIONER OF SECURITIES MAY ISSUE ORDERS, WHEN. — If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of sections 409.108 to 409.114, or any order, rule or regulation issued pursuant thereto or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, or course of business constituting a violation of sections 409.108 to 409.114, or any order, rule or regulation issued pursuant thereto, the commissioner may issue such orders as authorized pursuant to section 409.6-604.

409.114. DUTIES AND POWERS OF COMMISSIONER OF SECURITIES. — Sections 409.108 to 409.114 shall be administered by the commissioner of securities. The commissioner of

securities is hereby empowered to promulgate, alter, amend or revoke rules and regulations pursuant to section 409.6-605 as necessary to carry out the purposes of sections 409.108 to 409.114.

Approved June 25, 2004

HB 1622 [HB 1622]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Augments the definition of cosmetology establishment.

AN ACT to repeal section 329.010, RSMo, and to enact in lieu thereof one new section relating to cosmetology.

SECTION

- A. Enacting clause.
329.010. Definitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 329.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 329.010, to read as follows:

329.010. DEFINITIONS. — As used in this chapter, unless the context clearly indicates otherwise, the following words and terms mean:

(1) "Apprentice" or "student", a person who is engaged in training within a cosmetology establishment or school, and while so training performs any of the practices of the classified occupations within this chapter under the immediate direction and supervision of a registered cosmetologist or instructor;

(2) "Board", the state board of cosmetology;

(3) "Cosmetologist", any person who, for compensation, engages in the practice of cosmetology, as defined in subdivision (4) of this section;

(4) "Cosmetology" includes performing or offering to engage in any acts of the classified occupations of cosmetology for compensation, which shall include:

(a) "Class CH - hairdresser" includes arranging, dressing, curling, singeing, waving, permanent waving, cleansing, cutting, bleaching, tinting, coloring or similar work upon the hair of any person by any means; or removing superfluous hair from the body of any person by means other than electricity, or any other means of arching or tinting eyebrows or tinting eyelashes. Class CH - hairdresser, also includes, any person who either with the person's hands or with mechanical or electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams engages for compensation in any one or any combination of the following: massaging, cleaning, stimulating, manipulating, exercising, beautifying or similar work upon the scalp, face, neck, arms or bust;

(b) "Class MO - manicurist" includes cutting, trimming, polishing, coloring, tinting, cleaning or otherwise beautifying a person's fingernails, applying artificial fingernails, massaging, cleaning a person's hands and arms; pedicuring, which includes, cutting, trimming, polishing, coloring, tinting, cleaning or otherwise beautifying a person's toenails, applying artificial toenails, massaging and cleaning a person's legs and feet;

(c) "Class CA - hairdressing and manicuring" includes all practices of cosmetology, as defined in paragraphs (a) and (b) of this subdivision;

(d) "Class E - estheticians" includes the use of mechanical, electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, not to exceed ten percent phenol, engages for compensation, either directly or indirectly, in any one, or any combination, of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work upon the scalp, face, neck, ears, arms, hands, bust, torso, legs or feet and removing superfluous hair by means other than electric needle or any other means of arching or tinting eyebrows or tinting eyelashes, of any person;

(5) "Cosmetology establishment", that part of any building wherein or whereupon any of the classified occupations are practiced **including any space rented within a licensed establishment by a person licensed under chapter 329, for the purpose of rendering cosmetology services;**

(6) "Hairdresser", any person who, for compensation, engages in the practice of cosmetology as defined in paragraph (a) of subdivision (4) of this section;

(7) "Instructor", any person who is licensed to teach cosmetology or any practices of cosmetology pursuant to this chapter;

(8) "Manicurist", any person who, for compensation, engages in any or all of the practices in paragraph (b) of subdivision (4) of this section;

(9) "School of cosmetology" or "school of manicuring", an establishment operated for the purpose of teaching cosmetology as defined in subdivision (4) of this section.

Approved July 2, 2004

HB 1631 [HCS HB 1631 & 1623]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes outdated references to certain state institutions.

AN ACT to repeal section 205.900, RSMo, and to enact in lieu thereof one new section relating to supervision of paroled persons.

SECTION

A. Enacting clause.

205.900. Supervision of paroled persons by county superintendent of public welfare.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 205.900, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 205.900, to read as follows:

205.900. SUPERVISION OF PAROLED PERSONS BY COUNTY SUPERINTENDENT OF PUBLIC WELFARE. — 1. [The county superintendent of public welfare shall give such oversight and supervision to prisoners who are on parole from the state penitentiary and are residing in his county, and to persons who are on parole from the Missouri Reformatory, and Missouri Training School for Boys and to girls on parole from the State Training School for Girls or from the State Training School for Negro Girls, as may be requested by the state department of corrections and human resources and shall report upon the progress of said paroled prisoners to the state department of corrections and human resources as often as it may request.

2.] The county superintendent of public welfare in each county shall give oversight and supervision to prisoners on parole or probation by any court in the state of Missouri and shall

investigate applications for clemency when requested to do so by said courts, and shall report in regard to each person placed under his supervision to the court placing said persons under his supervision.

[3.]2. The county superintendent of public welfare shall also give oversight and supervision to children placed on parole or probation by the juvenile court or the court having jurisdiction of children's cases in his county when requested to do so by said court and shall report to said court upon progress of persons thus placed on parole or probation.

Approved July 7, 2004

HB 1634 [SCS HB 1634]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises the laws on military discharge records and other vital records.

AN ACT to repeal sections 59.480, 193.225, and 193.245, RSMo, and to enact in lieu thereof three new sections relating to disclosure of certain recorded documents.

SECTION

- A. Enacting clause.
- 59.480. Recording of discharges from armed forces — definitions — duties of recorders — certain discharge records open records — disclosure of records, when.
- 193.225. Methods of preserving records, requirements — certified reproductions accepted as originals — death record originals transferred to state archives.
- 193.245. Inspection and copying of records, disclosure of information, unlawful unless authorized — authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 59.480, 193.225, and 193.245, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 59.480, 193.225, and 193.245, to read as follows:

59.480. RECORDING OF DISCHARGES FROM ARMED FORCES — DEFINITIONS — DUTIES OF RECORDERS — CERTAIN DISCHARGE RECORDS OPEN RECORDS — DISCLOSURE OF RECORDS, WHEN. — 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Authorized party", any of the following:
 - (a) The person who is the subject of the document;
 - (b) The representative of a person who is the subject of the document or the agent of a person who is the subject of the document, including but not limited to, relatives, attorneys, attorneys in fact, conservators, guardians, and funeral directors; and who has authorization in writing from the person who is the subject of the document, the spouse of the person who is the subject of the document, a relative who is the next of kin of the person who is the subject of the document, a court, in order to represent the person who is the subject of the document or the executor of the person who was the subject of the document who is acting on behalf of the deceased subject of the document;
 - (c) Government agencies, including courts, that have an interest in assisting the subject of the document or in assisting the beneficiaries of the deceased subject of the document in obtaining a benefit;

(2) "Military discharge document", a discharge, separation notice, certificate of service, report of transfer or discharge, or any other notice or document which is evidence of severance or transfer from military service and which contains a service record from the armed forces of the United States, or any document that purports to represent a notice of separation from or service in any armed forces of the United States or any state, including but not limited to the Department of Defense form DD 214;

(3) "Recorder of deeds", the recorder of deeds in those counties where separate and the circuit clerk and ex officio recorder of deeds in those counties where the offices are combined.

2. Military discharge documents shall be accepted for filing by the recorder of deeds in all counties and the city of St. Louis in this state without any fee or compensation therefor.

3. The recorder of deeds may refuse to accept any military discharge document that:

(1) Is not an original or does not contain an original signature of an officer of the armed forces of the United States or a federal or state agency;

(2) Is not a certified copy from an agency of the federal or state government; or

(3) Appears to have alterations or erasures.

4. On or after the effective date of this section, the recorder of deeds shall:

(1) Maintain and make available to the public in its office an index containing only the name of the subject of a military discharge document;

(2) Maintain a separate index from publicly available information that contains only:

(a) The name of the subject of a military discharge document; and

(b) The location of the image of the military discharge document;

(3) Maintain the images of all military discharge documents separately from all other publicly available filed or recorded document images.

5. As part of any remote access system, the recorder of deeds shall not make available the location of the image or the image of the military discharge document.

6. Images of a military discharge document or copies thereof shall only be made available to an authorized party by submitting a notarized request form to the recorder of deeds. The recorder of deeds shall not receive a fee or compensation for a certified or uncertified copy of the military discharge document and shall not charge a notary fee for notarizing such request form.

7. All images of military discharge records older than seventy-five years are deemed principally of historical or genealogical interest, and shall be open records.

8. Prior to the effective date of this section, the Recorders Association of Missouri shall adopt a request form and any rules necessary to implement the provisions of this section. The recorder of deeds in all counties and the city of St. Louis shall use and furnish the forms adopted by the Recorders Association of Missouri and comply with the rules adopted by the Recorders Association of Missouri.

[8.] 9. A request form that contains more than one military discharge document shall not be accepted by the recorder of deeds.

[9.] 10. The recorder of deeds shall keep all completed request forms for a period of at least five years and such forms shall be made available only to an authorized party in accordance with the provisions of this section.

[10.] 11. In the event that military discharge documents, prior to the effective date of this section, have been commingled, and to the extent possible, a recorder of deeds may choose to enact the provisions of this section regarding the indexes and images.

[11.] 12. On or after the effective date of this section, military discharge documents kept pursuant to this section shall not be reproduced or used in whole or in part for any commercial or speculative purposes.

[12.] 13. Any individual, agency, or court which obtains information pursuant to this section shall not disseminate or disclose such information or any part thereof except as authorized in this section or otherwise by law.

[13.] **14.** The recorder of deeds shall not be liable for any damages that may result from good faith compliance with the provisions of this section.

193.225. METHODS OF PRESERVING RECORDS, REQUIREMENTS — CERTIFIED REPRODUCTIONS ACCEPTED AS ORIGINALS — DEATH RECORD ORIGINALS TRANSFERRED TO STATE ARCHIVES. — To preserve vital records, the state registrar is authorized to prepare typewritten, photographic, electronic, or other reproductions of vital statistics certificates or reports. **Such reproducing material shall be of durable material and the device used to reproduce the records shall be as to accurately reproduce and perpetuate the original records in all details ensuring their proper retention and integrity in accordance with standards established by the state records commission.** Such reproductions when certified by the state registrar shall be accepted as the original records. [The documents] **Death records over fifty years old** from which permanent reproductions have been made and verified [may be disposed of as provided by regulation] **shall be transferred to the Missouri state archives.**

193.245. INSPECTION AND COPYING OF RECORDS, DISCLOSURE OF INFORMATION, UNLAWFUL UNLESS AUTHORIZED — AUTHORITY. — It shall be unlawful for any person to permit inspection of, or to disclose information contained in, vital records or to copy or issue a copy of all or part of any such record except as authorized by this law and by regulation or by order of a court of competent jurisdiction or in the following situations:

(1) A listing of persons who are born or who die on a particular date may be disclosed upon request, but no information from the record other than the name and the date of such birth or death shall be disclosed;

(2) The department may authorize the disclosure of information contained in vital records for legitimate research purposes;

(3) To a qualified applicant as provided in section 193.255;

(4) Copies of death records over fifty years old may be disclosed upon request.

Approved June 25, 2004

HB 1660 [SCS HCS HB 1660]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Revises laws pertaining to accident reports and their disclosure.

AN ACT to repeal sections 43.250, 43.251, and 610.200, RSMo, and to enact in lieu thereof three new sections relating to accident reports.

SECTION

- A. Enacting clause.
- 43.250. Law enforcement officers to file accident reports with patrol, when.
- 43.251. Report forms — how provided, contents — approval by superintendent.
- 610.200. Law enforcement agency log or record of suspected crimes, accidents or complaints, available for inspection and copying.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.250, 43.251, and 610.200, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 43.250, 43.251, and 610.200, to read as follows:

43.250. LAW ENFORCEMENT OFFICERS TO FILE ACCIDENT REPORTS WITH PATROL, WHEN. — Every law enforcement officer who investigates a vehicle accident resulting in injury to or death of a person, or total property damage to an apparent extent of five hundred dollars or more to one person, or who otherwise prepares a written **or computer-generated** report as a result of an investigation either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall forward a [written] report of such accident to the superintendent of the Missouri state highway patrol within ten days after his **or her** investigation of the accident, except that upon the approval of the superintendent of the Missouri state highway patrol the report may be forwarded at a time and/or in a form other than as required in this section.

43.251. REPORT FORMS — HOW PROVIDED, CONTENTS — APPROVAL BY SUPERINTENDENT. — 1. The Missouri division of highway safety shall prepare and upon request supply to police departments, sheriffs, and other appropriate agencies or individuals forms for written accident reports as required by sections 43.250 and 43.251. [The written reports] **Reports** shall call for sufficiently detailed information to disclose, with reference to a vehicle accident, the cause, conditions then existing and the persons and vehicles involved.

2. Every **written or computer-generated** accident report required to be made [in writing] shall be [made] **submitted** on the appropriate form **or in the appropriate computer format** approved by the superintendent of the Missouri state highway patrol and shall contain all the information required therein unless not available.

610.200. LAW ENFORCEMENT AGENCY LOG OR RECORD OF SUSPECTED CRIMES, ACCIDENTS OR COMPLAINTS, AVAILABLE FOR INSPECTION AND COPYING. — [1. Except as provided in subsection 2 of this section] All law enforcement agencies that maintain a daily log or record that lists suspected crimes, accidents, or complaints, shall make available the following information for inspection and copying by the public:

(1) The time, substance, and location of all complaints or requests for assistance received by the agency;

(2) The time and nature of the agency's response to all complaints or requests for assistance; and

(3) If the incident involves an alleged crime or infraction:

(a) The time, date, and location of occurrence;

(b) The name and age of any victim, unless the victim is a victim of a crime under chapter 566, RSMo;

(c) The factual circumstances surrounding the incident; and

(d) A general description of any injuries, property or weapons involved.

[2. Any law enforcement agency with custody of an accident report or incident report, as defined in section 610.100, shall not release for sixty days after the date of the accident or incident the report containing the factual circumstances or general description of any injuries as provided in paragraphs (c) and (d) of subdivision (3) of subsection 1 of this section to a person that is not an interested party. For the purposes of this subsection, an "interested party" is any law enforcement agency, any person who was involved in the accident or incident, the street department of the jurisdiction involved, the owner of any vehicle involved in the accident or incident, the insurance company, physician or family member of any person involved in the accident or incident or any attorney or any member of the news media.]

Approved June 25, 2004

HB 1664 [HB 1664]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies procedures for registration of limited liability companies (LLC), limited partnerships (LP), and limited liability partnerships (LLP).

AN ACT to repeal sections 347.020, 347.025, 347.039, 347.041, 347.047, 347.051, 347.055, 347.079, 347.081, 347.088, 347.129, 347.131, 347.153, 347.155, 347.159, 347.161, 347.169, 347.179, 347.725, 351.046, 351.050, 351.051, 351.055, 351.060, 351.085, 351.090, 351.095, 351.106, 351.107, 351.110, 351.115, 351.125, 351.180, 351.195, 351.200, 351.315, 351.355, 351.430, 351.435, 351.448, 351.657, 351.658, 355.011, 355.021, 355.146, 355.631, 356.071, 356.211, 358.440, 358.460, 358.490, 359.021, 359.031, 359.041, 359.121, 359.141, 359.172, 359.501, 359.531, 359.541, 417.210, 417.215, 417.217, and 417.220, RSMo, and to enact in lieu thereof sixty-five new sections relating to business entities, with penalty provisions.

SECTION

- A. Enacting clause.
- 347.020. Name of company regulated.
- 347.025. Name may be reserved, how, time period.
- 347.039. Articles, contents.
- 347.041. Articles of amendment, contents — amendments required, when.
- 347.047. Execution of documents, manner — affirmation.
- 347.051. Delivery of documents to secretary of state, format, duties.
- 347.055. Statement of correction, filed when — contents — execution, effective, when — fee — statement signed.
- 347.079. Management of company, rights of members — managers, appointment — consent of members required for certain acts.
- 347.081. Operating agreement, contents — policy statement — enforceability, remedies.
- 347.088. Standard of duty — extent of liabilities and duties — profit or benefit, duty.
- 347.129. Notice of merger or consolidation, filing, contents — execution — notice of abandonment, contents — effective date of merger or consolidation of foreign companies.
- 347.131. Effective date of merger or consolidation.
- 347.153. Foreign company, registration required — application, contents, fee.
- 347.155. Proper application for registration, duties of secretary.
- 347.160. Amended certificates of registration required for certain foreign companies, when — additional information required, due date — fee.
- 347.161. Cancellation, articles of.
- 347.169. Affirmation, penalties of perjury.
- 347.179. Fees.
- 347.725. Articles of merger or consolidation, contents — filing — duplicates, delivery — effective, when.
- 351.046. Filing requirements — filing signifies document is correct.
- 351.050. Incorporators, duties — ownership and acquisition of shares, how construed.
- 351.051. Documents filed, when — refusal to file — duty to file.
- 351.055. Articles of incorporation, required contents — optional contents.
- 351.060. Filing of articles of incorporation — certificate of incorporation.
- 351.085. Amendment of articles of incorporation permitted.
- 351.090. Articles of incorporation, how amended.
- 351.095. Certificate of amendment, contents of.
- 351.106. Restatement of articles of incorporation.
- 351.107. Restated articles of incorporation may be amended at time of restatement.
- 351.110. Name of corporation regulated.
- 351.115. Reservation of right to exclusive use of corporate name, time period.
- 351.125. Annual fee.
- 351.180. Power to issue shares — preferences — procedure — redemption of stock by corporation, requirements — amended certificate of designation for classes or series adversely affecting holders, majority vote of holders required.
- 351.195. Reduction of stated capital, how made.
- 351.200. Redemption or purchase of own shares — retirement of shares.
- 351.315. Number of directors, how elected, how removed.

- 351.355. Officer, director, employee, or agent of corporation indemnified, when, methods authorized.
- 351.430. Summary of articles of merger or consolidation filed — contents.
- 351.435. Certain originals to be delivered to secretary of state who shall issue certificate of merger or consolidation.
- 351.448. Merger without shareholders' vote, when — requirements, results.
- 351.657. Abstract of corporate or registration record, fee — certification by secretary of state, fee — no fees, who — public inspection authorized — information by telephone, what given.
- 351.658. Fees for corporate filings with secretary of state.
- 355.011. Filing requirements.
- 355.021. Fees.
- 355.146. Corporate name requirements.
- 355.631. Articles of merger.
- 356.012. Filing of statement or document represents belief that statements are true and correct.
- 356.071. Regulating name of corporation.
- 356.211. Annual registration report — filed when, contents — form — fee — penalties for failure to file or making false declarations.
- 358.440. Registration as a limited liability partnership — renewals — withdrawal of registration — amendment — revocation, effect — fees — false statements, penalty — foreign partnership requirements.
- 358.460. Reservation of exclusive right to use of a name, procedure to reserve, time period — fee — transfer of name permitted — cancellation, procedure, fee.
- 358.490. Fees charged for copies of partnership papers filed with secretary of state — certificate of good standing of partnership may be issued by secretary of state, fee.
- 359.021. Name of limited partnership regulated.
- 359.031. Reservation of right to exclusive use of name.
- 359.041. Registered agent and registered office — procedure for changing, filed by limited partnership, filed by registered agent — effective when — failure to maintain, effect.
- 359.121. Execution of certificate.
- 359.141. Filing with secretary of state — duties of secretary — effective date of filing.
- 359.145. Statement of correction authorized, when — contents — effective date — fee — required signature.
- 359.172. Registered limited liability limited partnership, requirements, failure to file timely amendment to certificate, penalty.
- 359.501. Registration with secretary of state — form — contents.
- 359.531. Changes and amendments in registration, when, contents — foreign certification included — fee.
- 359.541. Cancellation of registration — authority of secretary to accept service of process.
- 417.210. Registration, when and how — contents — cancellation of fictitious name — ownership reflected in registration, when — registration effective and expiration dates — renewals, contents, effective date.
- 417.217. Foreign corporations, registration, when — exemption from, when.
- 417.220. Registration fee.
- 347.159. Certificate of correction of registration.
- 417.215. Registration of limited partnerships, when, how, contents.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 347.020, 347.025, 347.039, 347.041, 347.047, 347.051, 347.055, 347.079, 347.081, 347.088, 347.129, 347.131, 347.153, 347.155, 347.159, 347.161, 347.169, 347.179, 347.725, 351.046, 351.050, 351.051, 351.055, 351.060, 351.085, 351.090, 351.095, 351.106, 351.107, 351.110, 351.115, 351.125, 351.180, 351.195, 351.200, 351.315, 351.355, 351.430, 351.435, 351.448, 351.657, 351.658, 355.011, 355.021, 355.146, 355.631, 356.071, 356.211, 358.440, 358.460, 358.490, 359.021, 359.031, 359.041, 359.121, 359.141, 359.172, 359.501, 359.531, 359.541, 417.210, 417.215, 417.217, and 417.220, RSMo, are repealed and sixty-five new sections enacted in lieu thereof, to be known as sections 347.020, 347.025, 347.039, 347.041, 347.047, 347.051, 347.055, 347.079, 347.081, 347.088, 347.129, 347.131, 347.153, 347.155, 347.160, 347.161, 347.169, 347.179, 347.725, 351.046, 351.050, 351.051, 351.055, 351.060, 351.085, 351.090, 351.095, 351.106, 351.107, 351.110, 351.115, 351.125, 351.180, 351.195, 351.200, 351.315, 351.355, 351.430, 351.435, 351.448, 351.657, 351.658, 355.011, 355.021, 355.146, 355.631, 356.012, 356.071, 356.211, 358.440, 358.460, 358.490, 359.021, 359.031, 359.041, 359.121, 359.141, 359.145, 359.172, 359.501, 359.531, 359.541, 417.210, 417.217, and 417.220, to read as follows:

347.020. NAME OF COMPANY REGULATED. — The name of each limited liability company as set forth in its articles of organization:

(1) Shall contain the words "limited company" or "limited liability company" or the abbreviation "LC", "LLC", "L.C." or "L.L.C." and shall be the name under which the limited liability company transacts business in this state unless the limited liability company registers another name under which it transacts business as provided under chapter 417, RSMo, or conspicuously discloses its name as set forth in its articles of organization;

(2) May not contain the word "corporation", "incorporated", "limited partnership", ["L.P."], **"limited liability partnership"**, **"limited liability limited partnership"**, or "Ltd." or any abbreviation of one of such words or any word or phrase which indicates or implies that it is organized for any purpose not stated in its articles of organization or that it is a governmental agency; and

(3) Must be distinguishable upon the records of the secretary from the name of any corporation, limited liability company, limited partnership [or other business entity], **limited liability partnership, or limited liability limited partnership which is licensed**, organized, reserved, or registered under the laws of this state [or licensed or registered as a foreign corporation, limited liability company or limited partnership in this state] **as a domestic or foreign entity**, unless:

(a) Such other holder of a reserved or registered name consents to such use in writing and files appropriate documentation to the secretary to change its name to a name that is distinguishable upon the records of the secretary from the name of the applying limited liability company; or

(b) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this state is filed with the secretary.

347.025. NAME MAY BE RESERVED, HOW, TIME PERIOD. — 1. The exclusive right to the use of a name may be reserved by:

(1) Any person intending to organize a limited liability company under sections 347.010 to 347.187 and to adopt that name;

(2) Any domestic limited liability company intending to adopt that name;

(3) Any foreign limited liability company registered in this state intending to adopt that name or intending to register in this state and to adopt that name; or

(4) Any person intending to organize a foreign limited liability company and intending to have it registered in this state and to adopt that name.

2. The reservation shall be made by filing with the secretary [an application,] in a [form] **format** prescribed by the secretary, executed by the applicant, to reserve a specified name. If the secretary finds that the name is not registered with the secretary as a corporation, limited liability company, limited partnership [or other business entity name], **limited liability partnership, or limited liability limited partnership**, and is otherwise available for use, it shall reserve the name for the exclusive use of the applicant for a period of sixty days from and after the date the application is filed with the state. **A name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application. Upon the one hundred eighty-first day the name shall cease reserve status and may not be placed back in such status.**

347.039. ARTICLES, CONTENTS. — 1. The articles of organization shall set forth:

(1) The name of the limited liability company;

(2) The purpose or purposes for which the limited liability company is organized, which may be stated to be, or to include, the transaction of any or all lawful business for which a limited liability company may be organized under sections 347.010 to 347.187;

(3) The address, including street and number, if any, of the registered office and the name of the registered agent at such office;

(4) [If] **A statement as to whether** management of the limited liability company is vested in [one or more] managers[, a statement to that effect] **or in members**;

(5) The events[, if any, on] **by** which the limited liability company is to dissolve or the number of years the limited liability company is to [continue] **exist**, which may be any number or perpetual; and

(6) The name and **physical business or residence** address of each organizer.

2. The articles of organization may set forth any other provision, not inconsistent with law or sections 347.010 to 347.187, which are in the operating agreement of the limited liability company.

347.041. ARTICLES OF AMENDMENT, CONTENTS — AMENDMENTS REQUIRED, WHEN.

— 1. A limited liability company's articles of organization is amended by filing with the secretary articles of amendment, which shall set forth:

(1) The name of the limited liability company;

(2) The date the articles of amendment are filed, and, if the articles of amendment provide that they are not to become effective until a specified date after their filing date, the date that they are to become effective which may not be more than ninety days after their filing date;

(3) If the amendment is required to be filed as a result of the occurrence of any event specified in subdivision (2) of subsection 2 of this section, the nature of the event and the date such event occurred or is to occur;

(4) The amendment to the articles of organization; and

(5) A statement that the amendment is authorized under the operating agreement or is otherwise required to be filed under the provisions of sections 347.010 to 347.187.

2. A limited liability company's articles of organization shall be amended promptly, but in no event more than sixty days after the occurrence of any of the following events:

(1) To reflect [that] **any change in** management of the limited liability company [is then vested in one or more managers, in the case of a limited liability company in which management had not been previously so vested];

(2) To reflect that management of the limited liability company is no longer vested in one or more managers, in the case of a limited liability company in which management had previously been vested in one or more managers] **that was previously vested whether in managers or members;**

[(3)] (2) To reflect a change in the name of the limited liability company; or

[(4)] (3) To reflect a change in the time set forth in the articles of organization for the limited liability company to dissolve.

3. Except as otherwise provided in the operating agreement, a limited liability company's articles of organization may be amended from time to time in any and as many respects as may be desired so long as its articles of organization contain only such provisions as are contained in the operating agreement at the time of making such amendment.

347.047. EXECUTION OF DOCUMENTS, MANNER — AFFIRMATION. — 1. Unless otherwise provided in sections 347.010 to 347.187, articles, notices or documents permitted or required by sections 347.010 to 347.187 to be filed with the secretary shall be executed in the following manner:

(1) The initial articles of organization shall be executed by the organizer or organizers;

(2) An amended or restated articles of organization, statement of change of registered agent or registered office, notice of merger or consolidation, notice of winding up, articles of termination or other document required or permitted to be filed under sections 347.010 to 347.187 shall be executed by an authorized person or any other person duly authorized under the operating agreement; and

(3) All articles, notices and documents required by sections 347.010 to 347.187 to be filed by a limited liability company which is in the hands of a receiver, trustee, or other court-appointed fiduciary, shall be executed by such fiduciary.

2. The original, amended or restated articles of organization, notice of winding up, notice of merger or consolidation, articles of termination or other document required or permitted to be filed under sections 347.010 to 347.187 may be executed by a person duly authorized under a power of attorney.

3. The execution of any document required by sections 347.010 to 347.187 constitutes an affirmation under [penalties of perjury] **the penalties as set out in section 575.040, RSMo**, that the facts stated therein are true and that such person or persons are duly authorized to execute such document or are otherwise required to file such document under sections 347.010 to 347.187.

347.051. DELIVERY OF DOCUMENTS TO SECRETARY OF STATE, FORMAT, DUTIES. — 1. [Duplicate originals or] The original[, together with a duplicate] copy[, which may be either a signed or conformed copy,] of the articles of organization, an amendment or restatement of such articles, articles of termination, statement of change of registered agent or registered office, or any other statement, document or notice required or permitted to be filed pursuant to sections 347.010 to 347.187, or of any judicial decree requiring the filing of such document under sections 347.010 to 347.187, **in a format as prescribed by the secretary of state** shall be delivered to the secretary **of state**. A person who executes articles or other documents to be filed under sections 347.010 to 347.187 as an agent or fiduciary need not evidence his authority as a prerequisite to filing. If the secretary determines that the documents substantially conform to the filing provisions of sections 347.010 to 347.187, it shall, when all required filing fees have been paid:

- (1) Endorse on [each] **the accepted** signed original [and duplicate copy] the word "Filed", and the date [and time] of its acceptance for filing;
- (2) [Retain the signed original in the secretary's files; and
- (3) Return the duplicate copy to the person who filed it or the person's representative.

2. If the secretary is unable to make the determination required for filing by subsection 1 of this section at the time any documents are delivered for filing, the documents are deemed to have been filed at the time of delivery if the secretary subsequently determines that the documents as delivered substantially conform to the filing provisions of sections 347.010 to 347.187.

3.] The accepted original filing and certificate shall be retained by the secretary of state as a state record and a copy of both shall be returned to the person who submitted said document or the person's representative.

2. Upon the return by the secretary of any articles, notices, documents or judicial decree of amendment marked "Filed", the person or persons executing such documents shall promptly deliver or mail a copy thereof to each member unless the operating agreement provides otherwise.

347.055. STATEMENT OF CORRECTION, FILED WHEN — CONTENTS — EXECUTION, EFFECTIVE, WHEN — FEE — STATEMENT SIGNED. — 1. [If any document filed under sections 347.010 to 347.187 contains, as of the date such document was filed, an erroneous statement, an incorrect statement, typographical error, misspelling, other technical error or defect, or was defectively executed, verified or acknowledged, the document may be corrected by filing, in accordance with this section, a statement of correction.

2. The statement of correction shall set forth:

- (1) The name of the limited liability company and the jurisdiction under whose laws it is organized; and
- (2) A description of the document being corrected, the date it was filed with the secretary, or a filed copy of the document being corrected, specifying the error, misspelling, statement or defect to be corrected and the reason it is incorrect or the manner in which the execution was defective, and correcting the error, misspelling, statement or the defective execution.

3. A statement of corrections shall be executed in the same manner in which the document being corrected was required to be executed.

4. The statement of corrections is effective as of the date the original document was filed, except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, the statement of corrections is effective when filed.] **A domestic or foreign limited liability company may file a statement of correction in a format prescribed by the secretary of state, if the filed document contains an incorrect statement as of the date such document was filed.**

2. The statement of correction shall:

- (1) State the name of the limited liability company;**
- (2) State the type of document being corrected;**
- (3) State the name of the jurisdiction under the law of organization;**
- (4) Describe the incorrect statement and the reason for the correction;**
- (5) If the correction is for a foreign liability company with regard to an incorrect name, provide a certificate of existence or document of similar import duly authenticated by the secretary of state or other official having custody of the records in the state or country under whose laws it is registered.**

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons' articles of correction are effective when filed.

4. The secretary of state shall collect a filing fee of five dollars upon filing the statement of correction.

5. The statement of correction shall be signed by an authorized person of the limited liability company.

347.079. MANAGEMENT OF COMPANY, RIGHTS OF MEMBERS — MANAGERS, APPOINTMENT — CONSENT OF MEMBERS REQUIRED FOR CERTAIN ACTS. — 1. [Unless] The articles of organization shall provide [that] how management of the limited liability company [shall] will be vested [in one or more managers, management of the limited liability company shall be vested in the members,] and who shall have the right and authority to manage the affairs of the limited liability company and make all decisions with respect thereto, subject to any provisions in the operating agreement or sections 347.010 to 347.187 restricting or enlarging the management rights or responsibilities of one or more persons or classes of persons.

2. If the articles of organization provide that management of the limited liability company shall be vested in one or more managers, then management of the limited liability company shall be vested in such manager or managers who shall have the right and authority to manage the affairs of the limited liability company and make decisions with respect thereto to the extent provided in the operating agreement, including any provisions therein restricting or enlarging the management rights or responsibilities of one or more persons or classes of persons. The managers of a limited liability company shall be designated in the operating agreement, or designated, appointed or elected by the members in the manner prescribed by the operating agreement, and may be removed or replaced in the manner provided in the operating agreement. Managers need not be members of the limited liability company or individuals unless otherwise required by the operating agreement. If the operating agreement does not provide a manner for designating, appointing, electing, removing or replacing managers, then, the managers of a limited liability company shall be designated, appointed, elected, removed or replaced by the vote of a majority by number of the members and unless earlier removed or resigned, managers shall hold office until their successors have been designated, appointed or elected and qualified.

3. Except as provided in the operating agreement, the affirmative vote, approval or consent of all members shall be required to:

- (1) Amend a written operating agreement;**
-

(2) Issue an interest in the limited liability company to any person and admit such person as a member;

(3) Approve a merger or consolidation with another person;

(4) Change the status of the limited liability company from one in which management is vested in the members to one in which management is vested in one or more managers, or vice versa;

(5) Authorize any transaction, agreement or action on behalf of the limited liability company that is unrelated to its purpose as set forth in the articles of organization, that otherwise contravenes the operating agreement or that is not within the usual course of the business of the limited liability company; or

(6) Determine, modify, compromise or release the amount and character of the contributions which a member shall make, or shall promise to make, as the consideration for the issuance of an interest in the limited liability company.

4. Except as provided in the operating agreement, and subject to subsection 3 of this section, the affirmative vote, approval or consent of more than one-half by number of the authorized persons shall be required to decide any matter connected with the business or affairs of the limited liability company.

347.081. OPERATING AGREEMENT, CONTENTS — POLICY STATEMENT — ENFORCEABILITY, REMEDIES. — 1. The member or members of a limited liability company shall adopt an operating agreement containing such provisions as such member or members may deem appropriate, subject only to the provisions of sections 347.010 to 347.187 and other law. The operating agreement may contain any provision, not inconsistent with law, relating to the conduct of the business and affairs of the limited liability company, its rights and powers, and the rights, powers and duties of its members, managers, agents or employees, including:

(1) Whether the management of the limited liability company shall be vested in one or more members, managers or other persons, and, if so, the powers and authority to be exercised by such persons;

(2) Providing for classes or groups of members having various rights, powers and duties, and providing for the future creation of additional classes or groups of members having relative rights, powers and duties superior or equal to existing classes and groups of members;

(3) The exercise or division of management or voting rights among different classes or groups of members, managers or other persons on a per capita or other basis;

(4) With respect to any matter requiring a vote, approval or consent of members or managers, provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on, waiver of notice, action by consent without a meeting, quorum requirements, authorizations by proxy, or any other matter with respect to the exercise of any voting or approval rights;

(5) Authorizing all or certain persons to execute articles, notices or documents permitted or required by sections 347.010 to 347.187;

(6) Restrictions on the transfer of members' interests in the limited liability company, and options or rights to acquire or sell members' interests in the limited liability company;

(7) The manner in which income, gain, deduction, loss, credit and items thereof are to be allocated to the members; and

(8) Provisions relating to any tax elections to be made by the limited liability company and the authorization of persons to make such elections.

2. **It is the policy of sections 347.010 to 347.187 to give the maximum effect to the principle of freedom of contract and to the enforceability of operating agreements.**

3. The operating agreement shall be enforceable at law or in equity by any member to the extent provided in applicable law.

[3.] 4. This section shall not affect any otherwise valid agreement among members of a limited liability company.

347.088. STANDARD OF DUTY — EXTENT OF LIABILITIES AND DUTIES — PROFIT OR BENEFIT, DUTY. — 1. Except as otherwise provided in the operating agreement an authorized person shall discharge his or her duty under sections 347.010 to 347.187 and the operating agreement in good faith, with the care a corporate officer of like position would exercise under similar circumstances, in the manner [he reasonably believes] a reasonable person would believe to be in the best interest of the limited liability company, and shall not be liable for any such action so taken or any failure to take such action, if he or she performs such duties in compliance with this subsection.

2. To the extent that, at law or equity, a member or manager or other person has duties, including fiduciary duties, and liabilities relating to those duties to the limited liability company or to another member, manager, or other person that is party to or otherwise bound by an operating agreement:

(1) Any such member, manager, or other person acting under the operating agreement shall not be liable to the limited liability company or to any such other member, manager, or other person for the member's, manager's, or other person's good faith reliance on the provisions of the operating agreement; and

(2) The member's, manager's or other person's duties and liabilities may be expanded or restricted by provision in the operating agreement.

3. Except as otherwise provided in the operating agreement, every member or manager, if any, shall account to the limited liability company and hold as trustee for it any profit or benefit derived by such person without the informed consent of more than one-half by number of disinterested managers or members from any transaction connected with the conduct of the business and affairs or the winding up of the limited liability company, or from any personal use by such person of the property of the limited liability company, including confidential or proprietary information of the limited liability company or other matters entrusted to him as a result of his status as manager or member.

[3.] 4. Except as provided in subsection 2 of this section or the operating agreement, one who is a member of a limited liability company in which management is vested in one or more managers and who is not a manager shall have no duties to the limited liability company or to the other members solely by reason of acting in his capacity as a member.

347.129. NOTICE OF MERGER OR CONSOLIDATION, FILING, CONTENTS — EXECUTION — NOTICE OF ABANDONMENT, CONTENTS — EFFECTIVE DATE OF MERGER OR CONSOLIDATION OF FOREIGN COMPANIES. — 1. The surviving limited liability company in the merger or the new limited liability company in the consolidation shall file a notice of the merger or consolidation with the secretary which shall set forth:

- (1)** The name of each party to the merger or consolidation;
- (2)** The effective date of the merger or consolidation which may not exceed ninety days after the filing of the notice of merger or consolidation;
- (3)** The name of the surviving limited liability company in the merger or the new limited liability company in the consolidation and the state of its formation;
- (4)** A statement that the merger or consolidation was authorized and approved by the members of each party to the merger or consolidation in accordance with the laws of the jurisdiction where it was organized;
- (5)** If applicable, the address of the registered office and the name of the registered agent at such office for the surviving or new limited liability company;
- (6)** In the case of a merger in which a domestic limited liability company is the surviving limited liability company, such amendments to the articles of organization of the surviving limited liability company as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the articles of organization of the surviving limited liability company shall not be amended as a result of the merger;

(7) In the case of a consolidation in which a domestic limited liability company is the continuing limited liability company, the articles of organization of the new domestic limited liability company shall be set forth in an attachment to the notice of consolidation;

(8) A statement that the executed agreement of merger or consolidation is on file at the principal place of business of the surviving or new limited liability company, stating the address of the principal place of business; and

(9) A statement that a copy of the agreement of merger or consolidation will be furnished by the surviving or new entity, on request and without cost, to any member of any entity that is a party to the merger or consolidation.

2. The notice of the merger or consolidation shall be executed by at least one authorized person of the domestic limited liability company and one authorized agent, or its equivalent, for the other party to the merger or consolidation who is duly authorized to execute such notice.

3. In the event the merger or consolidation is not consummated for any reason, the domestic limited liability company shall promptly file a notice of the abandonment of the merger or consolidation with the secretary which shall set forth:

- (1) The name of each party to the merger or consolidation;
- (2) The date the notice of merger or consolidation was filed with the secretary; and
- (3) A statement that the merger or consolidation was not consummated and has been abandoned.

4. If the surviving or new limited liability company is a foreign limited liability company, the effective date of such merger or consolidation shall be the date on which the same becomes effective in the state of domicile of such surviving or new limited liability company; provided a document from the state of domicile of the surviving limited liability company in the case of merger or the case of consolidation certifying that the merger or consolidation has become effective in such state shall be a requirement for the merger or consolidation becoming effective in this state.

347.131. EFFECTIVE DATE OF MERGER OR CONSOLIDATION. — A merger or consolidation **with a domestic survivor or new domestic limited liability company** is effective as of the later of:

- (1) The [time] **date** the secretary files the notice of merger or consolidation for record; or
- (2) The [time] **date** set forth in the notice of merger or consolidation, not to exceed ninety days after the notice of merger or consolidation is accepted for filing.

347.153. FOREIGN COMPANY, REGISTRATION REQUIRED — APPLICATION, CONTENTS, FEE. — Before transacting business in this state, a foreign limited liability company shall register [with] **in a format prescribed by the secretary unless otherwise exempt under subdivision (5) of subsection 5 of section 347.163.** In order to register, a foreign limited liability company shall pay the required filing fee and shall submit to the secretary[, in duplicate,] an application for registration as a foreign limited liability company signed [and acknowledged] on its behalf by a manager, member or other authorized agent and setting forth:

- (1) The name of the foreign limited liability company and, if different, the name under which it proposes to register and transact business in this state;
- (2) The jurisdiction in which it was formed and date of its formation;
- (3) The purpose of the foreign limited liability company or the general character of the business it proposes to transact in this state;
- (4) The name and **physical** address of its registered agent and registered office in this state, which office and agent shall be subject to the same rights and limitations as provided in sections 347.030 and 347.033;
- (5) A statement that the secretary is appointed the agent of the foreign limited liability company for service of process if the limited liability company fails to maintain a registered agent

in this state or if the agent cannot be found or served with the exercise of reasonable diligence; [and]

(6) The address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited liability company;

(7) **A certificate of existence or a document of similar import duly authenticated by the secretary of state or other official having custody of the records in the state or country under whose laws it is registered; and**

(8) **A current certificate of good standing/existence from the secretary of state's office in the state of domicile, such document should be dated within sixty calendar days from filing.**

347.155. PROPER APPLICATION FOR REGISTRATION, DUTIES OF SECRETARY. — If the secretary finds that an application for registration conforms to law and all requisite fees have been paid[, such person shall]:

(1) **The secretary shall** endorse on the [signed original and duplicate copy of the] **accepted** application the word "Filed", and the month, day and year of the filing thereof; **and**

(2) [File in his office an original of the application;

(3) Issue a certificate of registration to transact business in this state; and

(4) Return the certificate of registration, together with a duplicate original of the application, to the person who filed the application or his representative] **The accepted filing shall be retained in the secretary of state's records and a copy of the accepted filing and certificate of registration shall be returned to the person who submitted the document or that person's representative.**

347.160. AMENDED CERTIFICATES OF REGISTRATION REQUIRED FOR CERTAIN FOREIGN COMPANIES, WHEN — ADDITIONAL INFORMATION REQUIRED, DUE DATE — FEE. — 1. A foreign limited liability company authorized to transact business in the state shall obtain an amended certificate of registration from the secretary of state if it changes:

(1) **The name of the limited liability company;**

(2) **The state or country of its registration.**

2. The amendment shall include a certificate of existence or document of similar import duly authenticated by the secretary of state or other official having custody of the records in the state or country under whose laws it is registered, such document should be dated within sixty calendar days from filing for acceptance.

3. The fee for filing an amended certificate of registration shall be twenty dollars.

347.161. CANCELLATION, ARTICLES OF. — A foreign limited liability company may cancel its registration by filing with the secretary articles of cancellation signed [and acknowledged] on its behalf by a manager, member or other authorized agent. A cancellation does not terminate the authority of the secretary to accept service of process on the foreign limited liability company with respect to causes of action arising out of the transactions of business in this state.

347.169. AFFIRMATION, PENALTIES OF PERJURY. — Execution of an application or a certificate by a foreign limited liability company constitutes an affirmation by the person who signed it under [the penalties of perjury] **the penalties set out in section 575.040, RSMo,** that the facts stated therein are true and that the person so signing has the authority to execute such application or certificate.

347.179. FEES. — The secretary shall charge and collect:

(1) For filing the original articles of organization, a fee of one hundred dollars;

(2) Applications for registration of foreign limited liability companies and issuance of a certificate of registration to transact business in this state, a fee of one hundred dollars;

(3) Amendments to and restatements of articles of limited liability companies to application for registration of a foreign limited liability company or any other filing otherwise provided for, a fee of twenty dollars;

(4) Articles of termination of limited liability companies or cancellation of registration of foreign limited liability companies, a fee of twenty dollars;

(5) For filing notice of merger or consolidation, a fee of twenty dollars;

(6) For filing a notice of winding up, a fee of twenty dollars;

(7) For issuing a certificate of good standing, a fee of five dollars;

(8) For a notice of the abandonment of merger or consolidation, a fee of twenty dollars;

(9) For furnishing a copy of any document or instrument, a fee of fifty cents per page;

(10) For accepting an application for reservation of a name, or for filing a notice of the transfer or cancellation of any name reservation, a fee of twenty dollars;

(11) For filing a statement of change of address of registered office or registered agent, or both, a fee of five dollars; [and]

(12) For any service of notice, demand, or process upon the secretary as resident agent of a limited liability company, a fee of twenty dollars, which amount may be recovered as taxable costs by the party instituting such suit, action, or proceeding causing such service to be made if such party prevails therein;

(13) For filing an amended certificate of registration a fee of twenty dollars; and

(14) For filing a statement of correction a fee of five dollars.

347.725. ARTICLES OF MERGER OR CONSOLIDATION, CONTENTS — FILING — DUPLICATES, DELIVERY — EFFECTIVE, WHEN. — 1. After an agreement of merger or consolidation is authorized, approved, and certified in accordance with section 347.720, the surviving or new entity shall file the agreement of merger or consolidation with the secretary of state or, in lieu thereof, articles of merger or consolidation, duly executed, by each constituent entity setting forth:

(1) The name, state or country of organization and nature or type of each of the constituent entities;

(2) That an agreement of merger or consolidation has been authorized and approved by each of the constituent entities in accordance with section 347.720;

(3) The effective date of the merger or consolidation which may not exceed ninety days after the date of filing of the agreement of merger or consolidation or the articles of merger or consolidation;

(4) The name of the surviving or new entity;

(5) If applicable, the address of the registered office and the name of the registered agent at such office for the surviving or new entity;

(6) In the case of a merger, such amendments or changes to the organizational documents of the surviving entity, as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the organizational documents of the surviving entity shall be its organizational documents;

(7) In the case of a consolidation, that the organizational documents of the new entity shall be as set forth in an attachment to such agreement or articles of merger or consolidation;

(8) That the executed agreement of merger or consolidation is on file at the principal place of business of the surviving or new entity, stating the address thereof; and

(9) That a copy of the agreement of merger or consolidation will be furnished by the surviving or new entity, on request and without cost, to any partner, shareholder, member, or their equivalent of any entity that is a party to the merger or consolidation.

2. [Two duplicate originals] **An original** of the agreement of merger or consolidation or articles of merger or consolidation [and one duplicate original] for each domestic constituent

entity to the merger or consolidation shall be delivered to the secretary of state for filing. A person who executes an agreement or articles of merger or consolidation as an agent or fiduciary need not exhibit evidence of authority as a prerequisite to filing. Unless the secretary of state finds that the agreement or articles of merger or consolidation do not conform to law, upon receipt of all filing fees required by law, the secretary of state shall:

(1) Endorse on [each copy] **the document** the word "Filed" and the day, month and year of the filing thereof;

(2) File the [original] **document** in the secretary of state's office;

(3) Issue a certificate of merger or consolidation, which shall set forth the names of all constituent entities, the name of the state or country under the laws of which each was formed, whether a merger or consolidation is involved, the name of the surviving or new entity, the name of the state or country under the laws of which the new entity is formed, the date of filing of the agreement of merger or consolidation or articles of merger or consolidation with him, and the effective date of the merger or consolidation;

(4) Return a copy of the certificate of merger or consolidation to the person who filed the agreement or articles of merger or consolidation or his representative; and

(5) File a copy of the certificate of merger or consolidation in the records of the secretary of state for each domestic constituent entity.

3. A merger or consolidation shall be effective when the requirements for effectiveness of the laws under which any constituent entity was formed have been met and the certificate of merger or consolidation has been filed by the secretary of state, unless a later date is specified in the agreement of merger or consolidation or articles of merger or consolidation, in which case, the effective date of the merger or consolidation will be the date so specified which shall, in no event, exceed ninety days after the date the agreement of merger or consolidation or articles of merger or consolidation is delivered to the secretary of state for filing.

351.046. FILING REQUIREMENTS — FILING SIGNIFIES DOCUMENT IS CORRECT. — 1.

A document shall satisfy the requirements of this section, and of any other section that adds to or varies from these requirements, to be entitled to filing by the secretary of state.

2. This chapter shall require or permit filing the document in the office of the secretary of state.

3. The document shall contain the information required by this chapter. It may contain other information as well.

4. The document shall be typewritten or printed.

5. The document shall be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. The document shall be executed:

(1) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by the incorporator(s); or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

7. The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may contain the corporate seal, an attestation by the secretary or an assistant secretary, an acknowledgment, verification or proof.

8. If the secretary of state has prescribed a mandatory form for the document under the provisions of section 351.047, the document shall be in or on the prescribed form.

10. **In accordance with rules established by the secretary of state**, any signature on any document authorized to be filed by or with the secretary of state pursuant to this chapter may be a facsimile, a conformed signature or an electronically transmitted signature.

351.050. INCORPORATORS, DUTIES — OWNERSHIP AND ACQUISITION OF SHARES, HOW CONSTRUED. — One or more natural persons of the age of eighteen years, or more, may act as an incorporator of such corporation by signing[, verifying] and delivering [in duplicate] in the office of the secretary of state the articles of incorporation of such corporation. Nothing contained in this chapter shall be construed as an indication of any legislative intention that the existence of a corporation, hereafter or heretofore formed, is in any respect impaired by the direct or indirect ownership of all of the shares of such corporation by one owner or by two owners or that by such ownership the corporation becomes dormant, inactive or incapable of acting as a corporation or ceases to possess any of the capacities, powers or authority which it otherwise would possess. The direct or indirect acquisition, heretofore or hereafter, of all of the shares of a corporation by one owner or by two owners and the having of only one shareholder or two shareholders at any time are declared to violate no policy or provision of the laws of this state.

State of)
) ss
County of)

.....
Notary Public

(for all other documents)

State of)
) ss
 County of)

.....
Notary Public]

1. If a document delivered to the office of the secretary of state satisfies the requirements of this chapter and is in a medium and format prescribed by the secretary of state the document shall be filed.

2. The secretary of state files the document by stamping or otherwise endorsing "filed" together with the secretary of state's name and official title and the date of receipt on the original when accompanied by the appropriate filing fee. After filing a document except as provided in sections 351.376 and 351.592, the secretary of state shall deliver a copy to the domestic or foreign corporation or its representative.

3. Upon refusing to file a document, the secretary of state shall return the rejected document to the domestic or foreign corporation or its representative with a brief written explanation of the reason or reasons for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. Filing or refusal to file a document does not:

- (1) Affect the validity or invalidity of the document in whole or in part;
- (2) Relate to the correctness or incorrectness of information contained in the document; or
- (3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

351.055. ARTICLES OF INCORPORATION, REQUIRED CONTENTS — OPTIONAL CONTENTS. — 1. The articles of incorporation shall set forth:

- (1) The name of the corporation;
- (2) The address, including street and number, if any, of its initial registered office in this state, and the name of its initial registered agent at such address;
- (3) **If the aggregate number of shares which the corporation shall have the authority to issue[, and] exceeds thirty thousand shares or the par value exceeds thirty thousand dollars the corporation shall indicate** the number of shares of each class, if any, that are to have a par value and the par value of each share of each such class, and the number of shares of each class, if any, that are to be without par value and also a statement of the preferences, qualifications, limitations, restrictions, and the special or relative rights including convertible rights, if any, in respect of the shares of each class;
- (4) [The extent, if any, to which the preemptive right of a shareholder to acquire additional shares is limited or denied;
- (5)] The name and [place of residence] **physical business or residence address** of each incorporator;
- [(6)] Either (a) the number of directors to constitute the first board of directors and a statement to the effect that thereafter the number of directors shall be fixed by, or in the manner provided in, the bylaws of the corporation, and that any changes shall be reported to the secretary of state within thirty calendar days of such change, or (b) the number of directors to constitute the board of directors, except that the number of directors to constitute the board of directors must be stated in the articles of incorporation if the corporation is to have less than three directors.

The persons to constitute the first board of directors may, but need not, be named;

- (7)] (5) The number of years the corporation is to continue, which may be any number or perpetual;

[(8)] (6) The purposes for which the corporation is formed[.].

2. The articles of incorporation may set forth:

- (1) **The number of directors to constitute the board of directors;**
- (2) **The extent if any to which the preemptive right of a shareholder to acquire additional shares is limited or denied;**

[(9)] (3) If the incorporators, the directors pursuant to subsection 1 of section 351.090 or the shareholders pursuant to subsection 2 of section 351.090 choose to do so, a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director (a) for any breach of the director's duty of loyalty

to the corporation or its shareholders, (b) for acts or omissions not in subjective good faith or which involve intentional misconduct or a knowing violation of law, (c) pursuant to section 351.345 or (d) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring prior to the date when such provision becomes effective. **On motion to dismiss, a person challenging the applicability of such a provision shall plead facts challenging such applicability with particularity, and there shall be no discovery until such motion to dismiss has been determined.** All references in this subdivision to a director shall also be deemed to refer (e) to a member of the governing body of a corporation which is not authorized to issue capital stock and (f) to such other person or persons, if any, who, pursuant to a provision of the articles of incorporation in accordance with this chapter, exercise or perform any of the powers or duties otherwise conferred or imposed upon the board of directors by this chapter;

[(10)] (4) Any other provisions, not inconsistent with law, which the incorporators, the directors pursuant to subsection 1 of section 351.090 or the shareholders pursuant to subsection 2 of section 351.090 may choose to insert.

351.060. FILING OF ARTICLES OF INCORPORATION — CERTIFICATE OF INCORPORATION. — 1. [Duplicate originals or] An original [and a] copy of the articles of incorporation signed [and verified] by the incorporators as required in section 351.050 shall be delivered to the office of the secretary of state. If the secretary of state finds that the articles of incorporation conform to [law] **this chapter**, he **or she** shall, when the required organizational taxes or fees have been paid, file the same, and an original shall be retained by the secretary of state as a permanent record.

2. The secretary of state shall then issue a certificate of incorporation under the seal of the state that the corporation has been duly organized. The secretary of state shall attach the certificate to the copy of the articles of incorporation filed with him and shall deliver them to the corporation or its representative.

351.085. AMENDMENT OF ARTICLES OF INCORPORATION PERMITTED. — [1. A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired; provided, that its articles of incorporation as amended contain only such provisions as might be lawfully contained in original articles of incorporation if made at the time of making such amendment, and if a change in shares or an exchange or reclassification of shares is to be made, such provisions as may be necessary to effect such change, exchange or reclassification as may be desired and as is permitted by this chapter.

2. In particular, and without limitation upon such general power of amendment, a corporation may amend its articles of incorporation from time to time so as:

- (1) To change its corporate name;
- (2) To change its period of duration;
- (3) To change, enlarge or diminish its corporate purposes;
- (4) To fix, increase or decrease the number of its directors or to provide that the number of directors shall be fixed by, or in the manner provided in, the bylaws of the corporation, in which case the corporation's articles of incorporation, as amended, must comply with subdivision (6) of section 351.055, except that they need not set forth the number of directors which constituted the first board of directors; provided, however, that the corporation shall give written notice to the secretary of state of the number of directors of the corporation as fixed by any method, such notice to be given within thirty calendar days of the date when the number of directors is fixed, and similar notice to be given whenever the number of directors is changed;
- (5) To increase or decrease the aggregate number of shares or shares of any class which the corporation has authority to issue;
- (6) To increase or decrease the par value of the authorized shares of any class having a par value, whether issued or unissued; provided, that if the par value of issued shares is increased,

there shall be transferred to stated capital at the time of such increase an amount of surplus equal to the aggregate amount by which the par value is increased;

(7) To exchange, classify, reclassify or cancel all or any part of its shares, whether issued or unissued;

(8) To change the designation of all or any part of its shares, whether issued or unissued, and to change the preferences, qualifications, limitations, restrictions and special or relative rights, including convertible rights, in respect of all or any part of its shares, whether issued or unissued;

(9) To change shares having a par value, whether issued or unissued, into the same or a different number of shares without par value, and to change shares without par value, whether issued or unissued, into the same or a different number of shares having a par value;

(10) To create a new class or classes of stock and to define the preferences, qualifications, limitations, restrictions, and the special or relative rights of the shares of such new class or classes;

(11) To establish, limit or deny to shareholders of any class the preemptive right to acquire additional shares of the corporation, whether then or thereafter authorized.] **A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation or to delete a provision not required in the articles of incorporation, provided that the name of an incorporator shall not be changed. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment.**

351.090. ARTICLES OF INCORPORATION, HOW AMENDED. — 1. At any time or times before the corporation has received any payment for any of its shares, the board of directors may adopt amendments to the articles of incorporation by executing [and verifying] a certificate of amendment as provided in subsection 1 of section 351.095.

2. After the corporation has received any payment for any of its shares, amendments to the articles of incorporation may be made only in the following manner:

(1) The board of directors may adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting, except that the proposed amendment need not be adopted by the board of directors and may be directly submitted to any annual or special meeting of shareholders.

(2) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in section 351.230 for the giving of notice of meetings of shareholders. If the meeting is an annual meeting, the proposed amendment or summary shall, nevertheless, be included in the notice of the annual meeting.

(3) At the meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. Subject to subsections 3 and 6 of this section, the proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

3. If the articles of incorporation or bylaws provide for cumulative voting in the election of directors, the number of directors shall not be decreased to less than three by amendment to the articles of incorporation when the number of shares voting against the proposal for decrease would be sufficient to elect a director if the shares were voted cumulatively at an election of three directors. If the articles of incorporation or bylaws do not provide for cumulative voting in the election of directors, then the number of directors shall only be decreased to less than three by amendment to the articles of incorporation approved by the affirmative vote of a majority of the outstanding shares entitled to vote on the amendment.

4. If any amendment made under section 351.085 effects a reduction of stated capital, then the corporation making the amendment shall comply with the applicable provisions of sections 351.195 and 351.200, as well as the provisions of this section.

5. Any number of amendments may be submitted to the shareholders and voted on by them at one meeting.

6. A proposed amendment which provides that section 351.407 does not apply to control share acquisitions of shares of a corporation shall be adopted upon receiving the affirmative vote of two-thirds of all outstanding shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of two-thirds of the outstanding shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. This subsection shall not affect or limit the right, power or authority of any issuing public corporation to adopt any other amendment or to take any other action in addition to an amendment providing for the nonapplicability of section 351.407 to control share acquisitions of the issuing public corporation pursuant to this section.

7. When a corporation has ten or fewer shareholders, cumulative voting may be abolished only by an affirmative vote of the holders of at least two-thirds of the outstanding shares.

351.095. CERTIFICATE OF AMENDMENT, CONTENTS OF. — 1. To adopt an amendment of the articles of incorporation as provided in subsection 1 of section 351.090, a majority of the board of directors shall execute a certificate of amendment [verified by one of them, and duplicate originals or the original and a copy of such certificate] **that** shall be delivered to the secretary of state. The certificate of amendment shall state:

- (1) The name of the corporation and, if it has been changed, the name under which it was originally organized;
- (2) The date of the adoption of the amendment by the directors;
- (3) The amendment adopted;
- (4) That on the date of adoption of the amendment by the directors the corporation had not received any payment for any of its shares.

2. After the adoption of an amendment of the articles of incorporation by the requisite vote of shareholders, a certificate of amendment shall be executed [in duplicate] by **an officer of** the corporation [by its president or a vice president and by its secretary or an assistant secretary, verified by one of the officers signing the certificate with corporate seal affixed, and duplicate originals or], the original [and a] copy of the certificate shall be delivered to the secretary of state. The certificate of amendment shall state:

- (1) The name of the corporation and, if it has been changed, the name under which it was originally organized;
- (2) The date of adoption of the amendment by the shareholders;
- (3) The amendment adopted;
- (4) The number of shares outstanding, the number of shares entitled to vote on the amendment and, if the shares of any class are entitled to vote thereon as a class, the number of outstanding shares of each class entitled to vote thereon;
- (5) The number of shares voted for and against the amendment, respectively, and, if the shares of any class are entitled to vote thereon as a class, the number of shares of each class voted for and against the amendment, respectively;
- (6) If the amendment provides for an exchange, reclassification, or cancellation of issued shares, or a reduction of the number of authorized shares of any class below the number of issued shares of that class, then a statement of the manner in which it shall be effected;
- (7) If the effective date of the amendment is to be a date other than the date of filing of the certificate of amendment with the secretary of state, then the effective date, which shall be no more than ninety days following the filing date, shall be specified.

351.106. RESTATEMENT OF ARTICLES OF INCORPORATION. — A domestic corporation may at any time restate its articles of incorporation as theretofore amended, in the following manner:

(1) The board of directors of the corporation may at any time adopt a resolution setting forth restated articles of incorporation correctly setting forth without change the corresponding provisions of the articles of incorporation as theretofore amended and, upon the approval of a majority of the directors, adopting the same on behalf of the corporation;

(2) Proposed restated articles of incorporation need not be adopted by the directors and may be submitted directly to any annual or special meeting of the shareholders. Written or printed notice stating that the purpose, or one of the purposes, of the meeting is to consider the restatement of the articles of incorporation shall be given to each shareholder of record entitled to vote at the meeting within the time and in the manner and upon the conditions provided in this chapter for the giving of notice of meetings of shareholders. The proposed restated articles of incorporation need not be included in the notice of the meeting;

(3) If the restatement of the articles is proposed to be adopted by the shareholders, such restated articles shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote, but dissenting shareholders shall not have the rights provided for in this chapter;

(4) Upon such approval, restated articles of incorporation shall be executed by **an officer of** the corporation [by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the articles], and shall contain a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended, and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto;

(5) [Duplicate originals or] The original [and a] copy of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to [law] **this chapter** he or she shall, when the required taxes or fees have been paid, file the same, and the original shall be retained by the secretary of state as a permanent record;

(6) The secretary of state shall then issue a restated certificate of incorporation under the seal of the state that the articles of incorporation of the corporation as amended have been duly restated; the certificate shall set forth the name of the corporation[, the amount of its authorized shares, the period of its existence and the address of its then registered office]. The secretary of state shall attach the certificate to the other copy of the restated articles of incorporation so filed with him and shall deliver them to the corporation or its representative;

(7) Upon the issuance of the restated certificate of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments.

351.107. RESTATED ARTICLES OF INCORPORATION MAY BE AMENDED AT TIME OF RESTATEMENT. — The articles of incorporation may be amended at the time of restatement of the articles of incorporation, in the following manner:

(1) The procedure required by this chapter for effecting an amendment to the articles of incorporation may be carried out concurrently with the procedure for restatement so that the proposed amendment and the restated articles may be presented to the same meetings of directors and shareholders;

(2) Such amendment **and restatement**, upon adoption by that percentage vote of shareholders required for that particular amendment, and on being set forth in [the] **a single** certificate of amendment **and restraint, in the manner** required by this chapter, may then be [incorporated into such restated articles of incorporation;

(3) In the event of such amendment, the restated articles shall not be] filed in the office of the secretary of state unless and until such amendment has become effective in the manner provided in this chapter.

351.110. NAME OF CORPORATION REGULATED. — The corporate name:

(1) Shall contain the word "corporation", "company", "incorporated", or "limited", or shall end with an abbreviation of one of said words;

(2) Shall not contain any word or phrase which indicates or implies that it is any governmental agency or organized for any purpose other than a purpose for which corporations may be organized under this chapter;

(3) Shall be distinguishable from the name of any domestic corporation existing under any law of this state or any foreign corporation authorized to transact business in this state, or any limited partnership, **limited liability partnership, limited liability limited partnership,** or limited liability company existing or transacting business in this state under chapter 347, RSMo, [and] **chapter 358, RSMo, or** chapter 359, RSMo, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, chapter 347, RSMo, **chapter 358, RSMo, or chapter 359, RSMo, or any other business entity organized, reserved, or registered under the law of this state.** If the name is the same, a word shall be added to make such name distinguishable from the name of such other corporation, limited liability company, **limited liability partnership, or limited liability limited partnership,** or limited partnership.

351.115. RESERVATION OF RIGHT TO EXCLUSIVE USE OF CORPORATE NAME, TIME PERIOD. — 1. The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this chapter;

(2) Any domestic corporation intending to change its name;

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state;

(4) Any foreign corporation authorized to transact business in this state and intending to change its name;

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

2. Such reservation shall be made by filing in the office of the secretary of state an application to reserve a specified corporate name, executed by the applicant. If the secretary of state finds that such name is available for corporate use, he shall reserve the same for the exclusive use of such applicant for a period of sixty days. **A name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application. Upon the one hundred eighty-first day the name shall cease reserve status and shall not be placed back in such status.**

3. The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person by filing in the office of the secretary of state a notice of such transfer, executed by the person for whom such name was reserved, and specifying the name and address of the transferee.

351.125. ANNUAL FEE. — Every corporation required to register under the provisions of this chapter shall pay to the state a fee of forty dollars for its annual registration **if the report is filed in a written format. The fee is fifteen dollars for each annual registration report filed via an electronic format prescribed by the secretary of state.** If a corporation fails to file a corporation registration report when due, it shall be assessed, in addition to its regular registration fee, a late fee of fifteen dollars for each thirty-day period within which the registration report is filed **whether in writing or in an electronic format.** If the registration report is not filed within ninety days, the corporation shall forfeit its charter.

351.180. POWER TO ISSUE SHARES — PREFERENCES — PROCEDURE — REDEMPTION OF STOCK BY CORPORATION, REQUIREMENTS — AMENDED CERTIFICATE OF DESIGNATION FOR CLASSES OR SERIES ADVERSELY AFFECTING HOLDERS, MAJORITY VOTE OF HOLDERS REQUIRED. — 1. Every corporation may issue one or more classes of stock or one or more series of stock within any class thereof, any or all of which classes may be of stock with par value or stock without par value and which classes or series may have such voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, as shall be stated and expressed in the articles of incorporation or any amendment thereto, or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of its articles of incorporation. Any of the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of any such class or series of stock may be made dependent upon facts ascertainable outside the articles of incorporation or of any amendment thereto, or outside the resolution or resolutions providing for the issue of such stock adopted by the board of directors pursuant to authority expressly vested in it by its articles of incorporation, provided that the manner in which such facts shall operate upon the voting powers, designations, preferences, rights and qualifications, limitations or restrictions of such class or series of stock is clearly and expressly set forth in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors. The power to increase or decrease or otherwise adjust the capital stock as provided in this chapter shall apply to all or any such classes of stock.

2. (1) Subject to the provisions of section 351.200, the stock of any class or series may be made subject to redemption by the corporation at its option or at the option of the holders of such stock or upon the happening of a specified event; provided, that at the time of such redemption the corporation shall have outstanding shares of at least one class or series of stock with full voting powers which shall not be subject to redemption. Notwithstanding the limitation stated in the foregoing provision:

(a) Any stock of a regulated investment company registered under the Investment Company Act of 1940, as amended, may be made subject to redemption by the corporation at its option or at the option of the holders of such stock;

(b) Any stock of a corporation which holds, directly or indirectly, a license, franchise, or contract from a governmental agency to conduct its business or is a member of a national securities exchange, which license, franchise, contract, or membership is conditioned upon some or all of the holders of its stock possessing the prescribed qualifications, may be made subject to redemption by the corporation to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it;

(2) Any stock which may be redeemable under this section may be redeemed for cash, property or rights, including securities of the same or another corporation, at such time or times, price or prices, or rate or rates, and with such adjustments, as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.

3. The holders of preferred or special stock of any class or of any series thereof shall be entitled to receive dividends at such rates, on such conditions and at such times as shall be stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided, payable in preference to, or in such relation to, the dividends payable on any other class or classes or of any other series of stock, and cumulative or noncumulative as shall be so stated and expressed. When dividends upon the preferred and special stocks, if any, to the extent of the preference to which such stocks are entitled, have been paid or declared and set apart for payment, a dividend on the remaining class or classes or series of stock may then be paid out of the remaining assets of the corporation available for dividends as is provided elsewhere in this chapter.

4. The holders of the preferred or special stock of any class or of any series thereof are entitled to such rights upon the dissolution of, or upon any distribution of the assets of, the corporation as is stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.

5. Any stock of any class or of any series thereof may be made convertible into, or exchangeable for, at the option of either the holder or the corporation or upon the happening of a specified event, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation, at such price or prices or at such rate or rates of exchange and with such adjustments as is stated in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors as hereinabove provided.

6. If any corporation is authorized to issue more than one class of stock or more than one series of any class, the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate which the corporation issues to represent such class or series of stock; but, in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate which the corporation issues to represent such class or series of stock, a statement that the corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

7. When any corporation desires to issue any shares of stock of any class or of any series of any class of which the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, have not been set forth in the articles of incorporation or in any amendment thereto, but are provided for in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation or any amendment thereto, a certificate of designations setting forth a copy of such resolution or resolutions and the number of shares of stock of such class or series as to which the resolution or resolutions apply shall be executed by the president or any vice president[, acknowledged] and filed by the corporation with the secretary of state. Unless otherwise provided in any such resolution or resolutions, the number of shares of stock of any such class or series to which such resolution or resolutions apply may be increased, but not above the number of shares of the class authorized by the articles of incorporation with respect to which the powers, designations, preferences and rights have not been set forth, or decreased, but not below the number of shares thereof then outstanding, by a certificate likewise executed[, acknowledged] and filed setting forth a statement that a specified increase or decrease therein had been authorized and directed by a resolution or resolutions likewise adopted by the board of directors. In case the number of such shares shall be decreased, the number of shares so specified in the certificate shall resume there status which they had prior to the adoption of the resolution or resolutions creating such shares. When no shares of any such class or series are outstanding, either because none were issued or because no issued shares of any such class or series remain outstanding, a certificate setting forth a resolution or resolutions adopted by the board of directors that none of the authorized shares of such class or series are outstanding, and that none will be issued subject to the certificate of designations previously filed with respect to such class or series, may be executed by the president or any vice president[, acknowledged] and filed by the corporation with the secretary of state and, when such certificate becomes effective, it shall have the effect of eliminating from the articles of incorporation all reference to such class or series of stock. When shares of stock of any class or of any series of any class of which the powers, designations, preferences, and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, have not been set forth in the articles of incorporation or in any

amendment thereto, but are provided in a resolution or resolutions adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation or any amendment thereto, the board of directors may, by resolution or resolutions adopted by the board of directors, amend the powers, designations, preferences and relative, participating, optional or other rights, if any, or the qualifications, limitations or restrictions thereof, if any, of any such class or series by filing an amended certificate of designations setting forth a copy of such resolution or resolutions, which shall include the terms and conditions of such amendment, executed by the president or any vice president[, acknowledged] and filed by the corporation with the secretary of state. Provided, however, that if any shares of any such class or series shall be issued and outstanding at the time of such filing, such amendment, if it adversely affects the holders thereof, shall not become effective unless as to any such class or series, a majority of the holders thereof, or such greater vote as the articles of incorporation or any amendment thereto require, adopts such amendment, and the certificate of designations shall state that such approval has been obtained. When any certificate is filed under this subsection, it shall have the effect of amending the articles of incorporation and shall become effective as provided in subsection 1 of section 351.105.

351.195. REDUCTION OF STATED CAPITAL, HOW MADE. — 1. The reduction of the stated capital of a corporation, whether by retirement of reacquired shares or otherwise, may be made in the following manner, but nothing contained in this section shall be construed to forbid the retirement of shares or the reduction of stated capital in any other manner permitted by this chapter:

(1) The board of directors may adopt a resolution setting forth the amount of the proposed reduction and the manner in which the reduction shall be effected, and directing that the question of the reduction be submitted to a vote at a meeting of the shareholders, which may be either an annual or a special meeting, except that such proposed reduction need not be adopted by the board of directors and may be directly submitted to any annual or special meeting of shareholders;

(2) Written or printed notice, stating that the purpose or one of the purposes of such meeting is to consider the question of reducing the stated capital of the corporation, shall be given to each shareholder of record entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of shareholders. If the meeting be an annual meeting, the purpose may be included in the notice of the annual meeting;

(3) At the meeting a vote of the shareholders entitled to vote thereat shall be taken on the question of the proposed reduction of stated capital, which shall require for its adoption the affirmative vote of the holders of at least two-thirds of the outstanding shares entitled to vote at the meeting.

2. [When a reduction of the stated capital of a corporation has been approved as provided in this section, a statement shall be executed by the corporation by the president or a vice president, and verified by him, and the corporate seal shall be thereto affixed, attested by the secretary or an assistant secretary, which statement shall set forth:

- (1) The name of the corporation;
- (2) A copy of the resolution of the shareholders approving such reduction;
- (3) The total number of shares outstanding;
- (4) The number of shares voted for and against such reduction, respectively;
- (5) A statement of the manner in which the reduction is effected, and a statement, expressed in dollars, of the amount of stated capital and the amount of paid-in surplus of the corporation adjusted to give effect to the reduction.

3. Duplicate originals or the original and a copy shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall file the same, retain the original of such statement and return the copy to the corporation or its representative. Upon the filing of the statement in the office of the secretary of state, the reduction shall be effective.

4.] No reduction of stated capital shall be made which would reduce the stated capital represented by shares without par value having a preferential right in the assets of the corporation in the event of involuntary liquidation to an amount less than the aggregate preferential amount provided from time to time to be payable upon such shares in the event of such involuntary liquidation.

[5.] 3. The surplus, if any, created by or arising out of a reduction of the stated capital of a corporation is paid-in surplus.

[6.] 4. No distribution of assets to shareholders in connection with a reduction of stated capital shall be made out of stated capital unless the assets of the corporation remaining after the reduction of stated capital shall be sufficient to pay any debts of the corporation, the payment of which shall not have been otherwise provided for.

[7.] 5. All shares retired under this or any other section shall become authorized and unissued shares of the class to which they belong, unless the reissue thereof is prohibited by the articles of incorporation, in which case the authorized shares of such class should be reduced to the extent of the shares so retired.

351.200. REDEMPTION OR PURCHASE OF OWN SHARES — RETIREMENT OF SHARES. —

1. Any corporation which has issued shares of any class of stock may, subject to the provisions of its articles of incorporation, redeem all or any part of such shares if subject to redemption under the provisions of its articles of incorporation, or purchase all or any part of such shares, but in the case of shares subject to redemption at not exceeding the price or prices at which the shares may be redeemed, and may by resolution of its board of directors apply to the redemption or purchase an amount out of its stated capital not exceeding the amount of stated capital represented by the shares so redeemed or purchased whereupon the shares so redeemed or purchased out of stated capital are deemed to be retired; but no such redemption or purchase shall be made out of stated capital unless the assets of the corporation remaining after such redemption or purchase are sufficient to pay any debts of the corporation the payment of which has not been otherwise provided for.

2. Any corporation may also by resolution of its board of directors, subject to the provisions of its articles of incorporation, redeem or purchase all or any part of the shares of any class or series of stock out of surplus, and may at any time by resolution of its board of directors retire any shares so redeemed or purchased out of surplus or acquired by the corporation in any other manner not covered by subsection 1 or 3 of this section.

3. Whenever any corporation reacquires any of its shares of any class or series of stock upon the conversion or exchange of such shares into or for other shares of the corporation, the reacquired shares shall be deemed to be retired and the amount of stated capital theretofore represented by the reacquired shares shall automatically be transferred to such other shares to the extent of the aggregate stated capital represented by such other shares. Whenever upon the conversion or exchange of shares into or for other shares of the corporation the amount of stated capital represented by the reacquired shares exceeds the total aggregate stated capital represented by such other shares, the corporation may at any time thereafter by resolution of its board of directors reduce its stated capital by any amount not exceeding the amount of such excess.

4. Whenever any stated capital is applied to the redemption or purchase of shares of any class or series of stock pursuant to subsection 1 of this section, any shares are retired pursuant to subsection 2 of this section, or stated capital is reduced pursuant to subsection 3 of this section, [a certificate shall be made accordingly, executed in duplicate by the corporation by the president or a vice president, and verified by such officer, and the corporate seal shall be affixed to, attested by the secretary or an assistant secretary of the corporation, which certificates shall be filed with the secretary of state and otherwise dealt with as in the case of articles of incorporation. Upon such filing, and without the necessity of complying with the provisions or requirements of any other section of this chapter,] the stated capital of the corporation shall be reduced by the amount represented by the shares redeemed or purchased of stated capital pursuant to subsection 1 of this

section, or shall be reduced by the amount of the stated capital represented by the shares retired pursuant to subsection 2 of this section, or shall be reduced by the amount specified by the resolution of the board of directors adopted pursuant to subsection 3 of this section. All shares retired by operation of subsection 1, 2 or 3 of this section shall become authorized and unissued shares of the class to which they belong, unless the reissue thereof is prohibited by the articles of incorporation, in which case the authorized shares of such class shall be reduced to the extent of the shares so retired.

351.315. NUMBER OF DIRECTORS, HOW ELECTED, HOW REMOVED. — 1. [A corporation shall have three or more directors, except that a corporation may have one or two directors provided the number of directors to constitute the board of directors is stated in the articles of incorporation.] **A board of directors shall consist of one or more individuals with the number specified or fixed in accordance with the articles of incorporation or bylaws.** Any corporation may elect its directors for one or more years, not to exceed three years, the time of service and mode of classification to be provided for by the articles of incorporation or the bylaws of the corporation; but, there shall be an annual election for such number or proportion of directors as may be found upon dividing the entire number of directors by the number of years composing a term. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders entitled to vote shall elect directors to hold office until the next succeeding annual meeting, except as herein provided. Each director shall hold office for the term for which he is elected or until his successor shall have been elected and qualified.

2. The articles of incorporation may confer upon holders of any class or series of stock the right to elect one or more directors who shall serve for such term and shall have such voting powers as shall be stated in the articles of incorporation. The terms of office and voting powers of the directors elected in the manner so provided in the articles of incorporation may be greater than or less than those of any other director or class of directors. If the articles of incorporation provide that directors elected by the holders of a class or series of stock shall have more or less than one vote per director on any matter, every reference in this chapter to a majority or other proportion of directors shall refer to a majority or other proportion of the votes such directors are entitled to cast.

3. At a meeting called expressly for that purpose, directors may be removed in the manner provided in this section. Such meeting shall be held at the registered office or principal business office of the corporation in this state or in the city or county in this state in which the principal business office of the corporation is located. Unless the articles of incorporation or the bylaws provide otherwise, one or more directors or the entire board of directors may be removed, with or without cause, by a vote of the holders of a majority of the shares then entitled to vote at an election of directors. If the articles of incorporation or bylaws provide for cumulative voting in the election of directors, if less than the entire board is to be removed, no one of the directors may be removed if the votes cast against such director's removal would be sufficient to elect such director if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which such director is a part. Whenever the holders of the shares of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect of the removal of a director or directors so elected, to the vote of the holders of the outstanding shares of that class and not to the vote of the outstanding shares as a whole.

[4. The corporation shall give written notice to the secretary of state of the number of directors of the corporation as fixed by any method. The notice shall be given within thirty days of the date when the number of directors is fixed, and similar notice shall be given whenever the number of directors is changed.]

351.355. OFFICER, DIRECTOR, EMPLOYEE, OR AGENT OF CORPORATION INDEMNIFIED, WHEN, METHODS AUTHORIZED. — 1. A corporation created under the laws of this state may

indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

2. The corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, and amounts paid in settlement actually and reasonably incurred by him in connection with the defense or settlement of the action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the court in which the action or suit was brought determines upon application that, despite the adjudication of liability and in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

3. Except as otherwise provided in the articles of incorporation or the bylaws, to the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the action, suit, or proceeding.

4. Any indemnification under subsections 1 and 2 of this section, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in this section. The determination shall be made by the board of directors by a majority vote of a quorum consisting of directors who were not parties to the action, suit, or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by the shareholders.

5. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of the action, suit, or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation as authorized in this section.

6. The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the articles of incorporation or bylaws or any agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

7. A corporation created under the laws of this state shall have the power to give any further indemnity, in addition to the indemnity authorized or contemplated under other subsections of this section, including subsection 6, to any person who is or was a director, officer, employee or agent, or to any person who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, provided such further indemnity is either (i) authorized, directed, or provided for in the articles of incorporation of the corporation or any duly adopted amendment thereof or (ii) is authorized, directed, or provided for in any bylaw or agreement of the corporation which has been adopted by a vote of the shareholders of the corporation, and provided further that no such indemnity shall indemnify any person from or on account of such person's conduct which was finally adjudged to have been knowingly fraudulent, deliberately dishonest or willful misconduct. Nothing in this subsection shall be deemed to limit the power of the corporation under subsection 6 of this section to enact bylaws or to enter into agreements without shareholder adoption of the same.

8. The corporation may purchase and maintain insurance **or another arrangement** on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him **or her** and incurred by him **or her** in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section. **Without limiting the power of the corporation to procure or maintain any kind of insurance or other arrangement the corporation may for the benefit of persons indemnified by the corporation create a trust fund, establish any form of self insurance, secure its indemnity obligation by grant of a security interest or other lien on the assets of the corporation, or establish a letter of credit, guaranty, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the corporation or with any insurer or other person deemed appropriate by the board of directors regardless of whether all or part of the stock or other securities of the insurer or other person are owned in whole or in part by the corporation. In the absence of fraud the judgment of the board of directors as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive and the insurance or arrangement shall not be voidable and shall not subject the directors approving the insurance or arrangement to liability on any ground regardless of whether directors participating in the approval are beneficiaries of the insurance arrangement.**

9. Any provision of this chapter to the contrary notwithstanding, the provisions of this section shall apply to all existing and new domestic corporations, including but not limited to banks, trust companies, insurance companies, building and loan associations, savings bank and safe deposit companies, mortgage loan companies, corporations formed for benevolent, religious, scientific or educational purposes and nonprofit corporations.

10. For the purpose of this section, references to "the corporation" include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, employee or agent of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this section with respect

to the resulting or surviving corporation as he or she would if he or she had served the resulting or surviving corporation in the same capacity.

11. For purposes of this section, the term "other enterprise" shall include employee benefit plans; the term "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and the term "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this section.

351.430. SUMMARY OF ARTICLES OF MERGER OR CONSOLIDATION FILED — CONTENTS.

— [1. Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by its president or a vice president, and verified by him, and the corporate seal of each corporation shall be thereto affixed, attested by its secretary or an assistant secretary, and shall set forth:

- (1) The plan of merger or the plan of consolidation;
- (2) As to each corporation, the number of shares outstanding;
- (3) As to each corporation, the number of shares voted for and against such plan, respectively.

2. In lieu of the delivery of articles of merger or articles of consolidation as required pursuant to section 351.435,] **After a plan of merger or consolidation is authorized in accordance with sections 351.420 and 351.425, the surviving corporation shall file a summary articles of merger or summary articles of consolidation**[, executed pursuant to section 351.046, may be filed pursuant to section 351.046 to be effective pursuant to section 351.048] **with the secretary of state.** Such summary articles shall state:

- (1) The name and state **or country** of incorporation of each of the [constituent] corporations;
- (2) That a plan of merger or consolidation has been approved[, adopted, certified, executed and acknowledged] **and authorized** by each of the [constituent] corporations [as required by this chapter] **in accordance with sections 351.420 and 351.425;**
- (3) **The effective date of the merger or consolidation which shall not exceed ninety days after the date of filing of the summary articles of merger or summary articles of consolidation by the secretary of state;**
- (4) The name of the surviving corporation in the case of a merger or the new corporation in the case of a consolidation;

[(4)] **(5) In the case of a consolidation, the new address of the registered office and the name of the registered agent at such office for the new corporation;**

(6) In the case of a merger, such amendments or changes in the articles of the surviving corporation as are desired to be effected by the merger, or, if no such amendments or changes are desired, a statement that the articles of incorporation of the surviving corporation shall be the articles of incorporation;

[(5)] **(7)** In the case of a consolidation, that the articles of incorporation of the new corporation shall be as set forth in an attachment to the summary articles;

[(6)] **(8)** That the executed plan of merger or consolidation is on file at the principal place of business of the surviving corporation in the case of a merger, or new corporation in the case of a consolidation stating the address thereof; and

[(7)] **(9)** That a copy of a plan of merger or consolidation will be furnished by the surviving corporation in the case of a merger or the new corporation in the case of a consolidation, on request and without cost, to any shareholder of any [constituent] corporation **that is a party to the merger or consolidation.**

351.435. CERTAIN ORIGINALS TO BE DELIVERED TO SECRETARY OF STATE WHO SHALL ISSUE CERTIFICATE OF MERGER OR CONSOLIDATION. — [Duplicate originals or] The original [and a] copy of the articles of merger or articles of consolidation shall be delivered to the secretary of state by the surviving corporation in the case of a merger or the new corporation in the case of a consolidation. The articles shall be executed pursuant to section 351.430, filed pursuant to section 351.046 and effective pursuant to section 351.048. If the secretary of state finds that the articles conform to [law] **this chapter**, he shall, when all required taxes or fees have been paid, file the same, keeping the original as a permanent record, and issue a certificate of merger or a certificate of consolidation, to which he shall affix the copy of such articles.

351.448. MERGER WITHOUT SHAREHOLDERS' VOTE, WHEN — REQUIREMENTS, RESULTS. — 1. Unless expressly required by its articles of incorporation for a holding company reorganization pursuant to this section through the use of a specific reference to this section, no vote of shareholders of a domestic corporation shall be necessary to authorize a merger with or into a single indirect wholly owned subsidiary of such domestic corporation but solely in connection with a holding company reorganization if:

(1) Such domestic corporation and the indirect wholly owned subsidiary of such domestic corporation are the only constituent corporations to the merger;

(2) Each share or fraction of a share of the capital stock of such domestic corporation outstanding immediately prior to the effective time of the merger is converted in the merger into a share or equal fraction of share of capital stock of a holding company having the same designations, rights, powers and preferences, and the qualifications, limitations and restrictions thereof, as the share or fraction of a share of stock of such domestic corporation being converted in the merger;

(3) The holding company and each of the constituent corporations to the merger are corporations of this state;

(4) The articles of incorporation and bylaws of the holding company immediately following the effective time of the merger contain provisions identical to the articles of incorporation and bylaws of such domestic corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate name, registered office and agent, the initial board of directors and the initial subscribers for shares and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification or cancellation of stock, if such change, exchange, reclassification or cancellation has become effective;

(5) As a result of the merger such domestic corporation or its successor corporation becomes or remains a direct or indirect wholly owned subsidiary of the holding company;

(6) The directors of such domestic corporation become or remain the directors of the holding company upon the effective time of the merger;

(7) The articles of incorporation of the surviving corporation immediately following the effective time of the merger are identical to the articles of incorporation of such domestic corporation immediately prior to the effective time of the merger, other than provisions, if any, regarding the incorporator or incorporators, the corporate name, registered office and agent, elections and composition of the board of directors, the initial board of directors and the initial subscribers for shares and such provisions contained in any amendment to the articles of incorporation as were necessary to effect a change, exchange, reclassification or cancellation of stock, if such change, exchange, reclassification or cancellation has become effective; provided, however, that:

(a) The articles of incorporation of the surviving corporation shall be amended in the merger to contain a provision requiring that any act or transaction by or involving the surviving corporation that requires for its adoption pursuant to this chapter or its articles of incorporation the approval of the shareholders of the surviving corporation shall, by specific reference to this section, require, in addition, the approval of the shareholders of the holding company, or any

successor by merger, by the same vote as is required by this chapter or by the articles of incorporation of the surviving corporation, or both; and

(b) The articles of incorporation of the surviving corporation may be amended in the merger to reduce the number of classes and shares of capital stock that the surviving corporation is authorized to issue; and

(8) The shareholders of such domestic corporation do not recognize gain or loss for United States federal income tax purposes as determined by the board of directors of such domestic corporation.

2. As used in this section only, the term "holding company" means a corporation which, from its incorporation until consummation of a merger governed by this section, was at all times a direct or indirect wholly owned subsidiary of such domestic corporation and whose capital stock is issued in such merger.

3. From and after the effective time of a merger adopted by such domestic corporation by action of its board of directors and without any vote of shareholders pursuant to this section:

(1) To the extent the restrictions of section 351.407 or 351.459 applied to such domestic corporation and its shareholders or shares at the effective time of the merger, such restrictions shall apply to the holding company and its shareholders or shares immediately after the effective time of the merger as though it were such domestic corporation, and all shares of stock of the holding company acquired in the merger shall for purposes of sections 351.407 and 351.459 be deemed to have been acquired at the time that the shares of stock of such domestic corporation converted in the merger were acquired, and provided further that any shareholder who immediately prior to the effective time of the merger was not an interested shareholder within the meaning of section 351.459 shall not solely by reason of the merger become an interested shareholder of the holding company; and

(2) If the corporate name of the holding company immediately following the effective time of the merger is the same as the corporate name of such domestic corporation immediately prior to the effective time of the merger, the shares of capital stock of the holding company into which the shares of capital stock of such domestic corporation are converted in the merger shall be represented by the stock certificates that previously represented shares of capital stock of such domestic corporation.

4. If a plan of merger is adopted by such domestic corporation by action of its board of directors and without any vote of shareholders pursuant to this section, the articles of merger shall state that the plan of merger has been adopted pursuant to this section and shall set forth the resolution of the board of directors of such domestic corporation approving the plan of merger and the date of adoption of the resolution and shall state that the conditions in the first sentence of subsection 1 of this section have been satisfied. The articles of merger shall also set forth the plan of merger and as to each of the constituent corporations to the merger, the number of shares outstanding, shall be executed [and verified] as provided in section 351.430 and shall be filed in accordance with section 351.435 and the merger shall become effective in accordance with section 351.440.

5. The provisions of section 351.455 shall not apply to a merger effected pursuant to this section.

6. Nothing in this section shall amend, alter, modify, restrict, limit or otherwise change the provisions of section 351.447. As provided in section 351.017, actions taken in accordance with this section and with any other section of this chapter are acts of independent legal significance.

351.657. ABSTRACT OF CORPORATE OR REGISTRATION RECORD, FEE — CERTIFICATION BY SECRETARY OF STATE, FEE — NO FEES, WHO — PUBLIC INSPECTION AUTHORIZED — INFORMATION BY TELEPHONE, WHAT GIVEN. — 1. The secretary of state shall, upon receipt of a written **or electronic** request and a fee of five dollars, furnish to the person or governmental agency so requesting an abstract of the corporate **or registration** record of any [one corporation or limited partnership licensed to do business or conduct its affairs in this

state, or the registration record of any one individual or organization] **business entity** registered in the secretary of state's office. Such abstract shall be in concise form and may contain the information contained in one or more annual corporation registration reports or any other document filed by the corporation. The abstract shall contain:

- (1) The name of the [corporation or limited partnership] **business entity**;
- (2) The principal place of business, if known;
- (3) The registered agent and registered office; and
- (4) The current status of the [corporation or limited partnership] **business entity**.

2. The secretary of state shall certify an abstract of such record upon written request therefor. The fee for such certification shall be five dollars in addition to the fee required for furnishing an abstract record as provided in subsection 1 of this section. The certification shall be made under the seal of the office of the secretary of state.

3. The secretary of state shall also, in accordance with rules promulgated by him, make available for public inspection and copying during regular office hours all papers filed in the office of secretary of state relative to any corporation or business concern the filings of which are administered by him.

4. No fee as herein provided shall apply to any agency or department of the state of Missouri.

5. The secretary of state shall furnish without charge information over the phone concerning corporate status, registered agent and incorporation date and withdrawal date only of any corporation licensed to do business in this state.

6. The secretary of state may in his discretion make a preclearance examination and report upon any document proposed to be filed with the secretary of state, and may charge a fee therefor not in excess of fifty dollars.

7. After initial incorporation the secretary of state may at his discretion permit the filing of any certificate or other paper without first requiring payment of the fees required by any provision of this chapter.

351.658. FEES FOR CORPORATE FILINGS WITH SECRETARY OF STATE. — Except as otherwise provided in this chapter, the secretary of state shall charge and collect for:

- (1) Filing application for reservation of a corporate name, twenty dollars;
 - (2) Filing amendment to articles of incorporation or certificate of authority and issuing a certificate of amendment or amended certificate of authority, twenty dollars;
 - (3) Filing articles of merger or consolidation, twenty-five dollars plus five dollars for each merging or consolidating Missouri corporation or foreign corporation authorized to do business in Missouri over two in number;
 - (4) Filing articles of dissolution, twenty dollars; filing articles of liquidation, twenty dollars;
 - (5) Filing of revocation of articles of dissolution, twenty dollars;
 - (6) Filing of restated articles of incorporation, twenty dollars;
 - [(7)] Filing of statement of reduction of stated capital, twenty dollars;
 - (8) Filing of a certificate of redemption or designation, twenty dollars;
 - (9)] (7) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, twenty dollars;
 - [(10)] (8) Filing statement of change of address of registered office or change of registered agent, or both, five dollars;
 - [(11)] (9) Filing resignation of registered agent, five dollars;
 - [(12)] (10) Certified copy of corporate record, **in a written format** fifty cents per page plus five dollars for certification, **or in an electronic format five dollars for certification and copies**;
 - [(13)] (11) Furnishing certificate of corporate existence, five dollars;
 - [(14)] (12) Furnishing certificate — others, twenty dollars;
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- [(15)] (13) Filing evidence of merger by a foreign corporation, twenty dollars plus one dollar for each additional foreign corporation authorized to do business in Missouri over two;
- [(16)] (14) Filing evidence of dissolution by a foreign corporation, twenty dollars.

355.011. FILING REQUIREMENTS. — 1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the secretary of state.

2. No document shall be entitled to filing by the secretary of state unless this chapter requires or permits filing the document in the office of the secretary of state.

3. The document must contain the information required by this chapter. It may contain other information as well.

4. The document must be typewritten or printed.

5. The document must be in the English language. However, a corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

6. The document must be executed:

(1) By the presiding officer of the board of directors of a domestic or foreign corporation, its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

7. The person executing a document shall sign it and state beneath or opposite the signature his name and the capacity in which he signs. The document may, but need not, contain:

(1) The corporate seal;

(2) An attestation by the secretary or an assistant secretary; or

(3) An acknowledgment, verification, or proof.

8. If the secretary of state has prescribed a mandatory form for a document under section 355.016, the document must be in or on the prescribed form.

9. The document must be delivered to the office of the secretary of state for filing and must be accompanied by one exact or conformed copy, except as provided in sections 355.171 and 355.791, the correct filing fee, and any license fee or penalty required by this chapter or other law.

10. Any statement or document filed under this chapter represents that the signor believes the statements are true and correct to the best knowledge and belief of the person signing, subject to the penalties of section 557.040, RSMo.

355.021. FEES. — 1. The secretary of state shall collect the following fees when the documents described in this subsection are delivered for filing:

(1) Articles of incorporation, twenty dollars;

(2) Application for reserved name, twenty dollars;

(3) Notice of transfer of reserved name, two dollars;

(4) Application for renewal of reserved name, twenty dollars;

(5) Corporation's statement of change of registered agent or registered office or both, five dollars;

(6) Agent's statement of change of registered office for each affected corporation, five dollars;

(7) Agent's statement of resignation, five dollars;

(8) Amendment of articles of incorporation, five dollars;

(9) Restatement of articles of incorporation with amendments, five dollars;

(10) Articles of merger, five dollars;

- (11) Articles of dissolution, five dollars;
 - (12) Articles of revocation of dissolution, five dollars;
 - (13) Application for reinstatement following administrative dissolution, twenty dollars;
 - (14) Application for certificate of authority, twenty dollars;
 - (15) Application for amended certificate of authority, five dollars;
 - (16) Application for certificate of withdrawal, five dollars;
 - (17) Annual report, ten dollars **if filed in a written format or five dollars if filed electronically in a format prescribed by the secretary of state;**
 - (18) Articles of correction, five dollars;
 - (19) Certificate of existence or authorization, five dollars;
 - (20) Any other document required or permitted to be filed by this chapter, five dollars.
2. The secretary of state shall collect a fee of ten dollars upon being served with process under this chapter. The party to a proceeding causing service of process is entitled to recover the fee paid the secretary of state as costs if the party prevails in the proceeding.
3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:
- [(1) Fifty cents a page for copying; and
 - (2) Five dollars for the certificate.] **in a written format fifty cents per page plus five dollars for certification, or in an electronic format five dollars for certification and copies.**

355.146. CORPORATE NAME REQUIREMENTS. — 1. A corporate name may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 355.126 and its articles of incorporation.

2. Except as authorized by subsection 3 of this section, a corporate name must be distinguishable upon the records of the secretary of state from any domestic **or foreign corporation, limited partnership, limited liability partnership, limited liability limited partnership, or limited liability company** existing under any law of this state or any foreign corporation authorized to transact business in this state, [or any limited partnership existing or transacting business in this state under chapter 359, RSMo.] **or any business entity organized, reserved, or registered under the laws of this state** or a name the exclusive right to which is, at the time, reserved.

3. A corporation may use the name, including the fictitious name, of another domestic or foreign business or nonprofit corporation that is used in this state if the other corporation is incorporated or authorized to do business in this state and the proposed user corporation:

- (1) Has merged with the other corporation;
- (2) Has been formed by reorganization of the other corporation; or
- (3) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

4. This chapter does not control the use of fictitious names.

355.631. ARTICLES OF MERGER. — 1. After a plan of merger is approved by the board of directors, shareholders, and if required by section 355.626, by the members and any other persons, the surviving or acquiring corporation shall deliver to the secretary of state articles of merger setting forth:

- (1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is herein designated as "the surviving corporation";
 - (2) The plan of merger;
 - (3) If approval by members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board of directors;
 - (4) If approval by members was required:
 - (a) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and number of votes of each class indisputably voting on the plan; and
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(b) Either the total number of votes cast for and against the plan by each class entitled to vote separately on the plan or the total number of undisputed votes cast for the plan by each class and a statement that the number cast for the plan by each class was sufficient for approval by that class;

(5) If approval of the plan by some person or persons other than the members or the board is required pursuant to subdivision (3) of subsection 1 of section 355.626, a statement that the approval was obtained;

(6) If approval by shareholders was required, then a statement as to the manner and basis of converting the shares of each merging corporation into cash, property, memberships or other securities or obligations of the surviving corporation, or, if any shares of any merging corporation are not to be converted solely into cash, property, memberships or other securities or obligations of the surviving corporation, into cash, property, shares or other securities or obligations of any other domestic or foreign corporation, which cash, property, shares or other securities or obligations of any other domestic or foreign corporation may be in addition to or completely in lieu of cash, property, shares or other securities or obligations of the surviving corporation;

(7) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by the merger.

2. The articles of merger shall be executed in duplicate by each nonprofit or business corporation as follows:

(1) Signed [and verified] as provided in subdivision (1) of subsection 6 of section 355.011 for nonprofit corporations;

(2) Signed [and verified] as provided in section 351.430, RSMo, for business corporations.

356.012. FILING OF STATEMENT OR DOCUMENT REPRESENTS BELIEF THAT STATEMENTS ARE TRUE AND CORRECT. — Any statement or document filed under this chapter represents that the signor believes the statements are true and correct to the best knowledge and belief of the person signing, subject to the penalties provided under section 575.040, RSMo.

356.071. REGULATING NAME OF CORPORATION. — [1.] The name of a professional corporation or of a foreign professional corporation authorized to transact business in this state shall:

(1) Contain the words "Professional Corporation" or the abbreviation "P.C." and the corporation shall identify itself with such designation in the course of rendering any professional service;

(2) Not contain any word or phrase that indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;

(3) Be distinguishable from (as the preceding standards may be defined at the time of incorporation or qualification in or under the general and business corporation law of Missouri, chapter 351, RSMo) the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at such time, reserved in the manner provided in the general and business corporation law of Missouri, chapter 351, RSMo, **the not-for-profit corporation law, chapter 355, RSMo, the uniform limited partnership law, chapter 359, RSMo, the uniform partnership law relating to registered limited liability partnerships and limited liability limited partnerships, chapter 358, RSMo, or the limited liability company act, chapter 347, RSMo, or the name of an entity that has in effect a registration of its corporate name under either chapter 347, 351, 355, 358, or 359, RSMo, or any other business entity organized, reserved, or registered under the laws of this state;** except that, this provision shall not apply if:

(a) Such similarity results from the use in the corporate name of the professional corporation or foreign professional corporation personal names of its shareholders or former shareholders; or

(b) The applicant files with the secretary of state either of the following:

a. If the name is the same, a change whereby a word is added to make such name distinguishable from the name of such other corporation, limited partnership or limited liability company; or

b. A certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this state; and

(4) Otherwise conform to any rule promulgated by any licensing authority having jurisdiction over a professional service described in the articles of incorporation of such corporation.

[2. Any corporation organized pursuant to laws which are repealed by sections 356.011 to 356.261 shall amend its articles of incorporation to comply with the provisions of this section on or before the date one year after August 13, 1986, which amendment shall be accepted by the secretary of state for filing and shall be processed without cost to the corporation. The secretary of state shall give notice of the requirement of this section to any corporation that fails to comply with this section within nine months after August 13, 1986, including the name to which the corporate name will be changed by the secretary of state if its name is not voluntarily changed within the one-year period set by this subsection. The articles of incorporation of any corporation that has not so amended its articles of incorporation to comply with this section within the one-year period set by this subsection shall then be automatically amended by force of law to comply with this section. The secretary of state shall then exercise its discretion to modify the name of the corporation according to its notice to comply with this section, and shall file such an amendment in its records and mail a copy of that amendment to the corporation.]

356.211. ANNUAL REGISTRATION REPORT — FILED WHEN, CONTENTS — FORM — FEE — PENALTIES FOR FAILURE TO FILE OR MAKING FALSE DECLARATIONS. — 1. Each professional corporation and each foreign professional corporation shall file with the secretary of state an annual corporation registration report pursuant to section 351.120, RSMo. The corporate registration report shall set forth the following information:

[(1)] The names and residence or physical business addresses of all officers, directors and shareholders of that professional corporation as of the date of the report;

[(2)] A statement that each officer, director and shareholder is or is not a qualified person as defined in sections 356.011 to 356.261, and setting forth the date on which any shares of the professional corporation were no longer owned by a qualified person, and any subsequent disposition thereof;

(3) A statement as to whether or not suit has been instituted to fix the fair value of any shares not owned by a qualified person, and if so, the date on which and the court in which the same was filed.]

2. The report shall be made on a form to be prescribed and furnished by the secretary of state, and shall be executed by an officer of the corporation or authorized person.

3. A filing fee in the amount set out in section 351.125, RSMo, shall be paid with the filing of each report, and no other fees shall be charged therefor; except that, penalty fees may be imposed by the secretary of state for late filings. The report shall be filed subject to the time requirements of section 351.120, RSMo.

4. If a professional corporation or foreign professional corporation shall fail to file a report qualifying with the provisions of this section when such a filing is due, then the corporation shall be subject to the provisions of chapter 351, RSMo, that are applicable to a corporation that has failed to timely file the annual report required to be filed under chapter 351, RSMo.

358.440. REGISTRATION AS A LIMITED LIABILITY PARTNERSHIP — RENEWALS — WITHDRAWAL OF REGISTRATION — AMENDMENT — REVOCATION, EFFECT — FEES — FALSE STATEMENTS, PENALTY — FOREIGN PARTNERSHIP REQUIREMENTS. — 1. To register as a limited liability partnership pursuant to this section, a written application shall be filed [in duplicate] with the office of the secretary of state. The application shall set forth:

- (1) The name of the partnership;
 - (2) The address of a registered office and the name and address of a registered agent for service of process required to be maintained by section 358.470;
 - (3) The number of partners in the partnership at the date of application;
 - (4) A brief statement of the principal business in which the partnership engages;
 - (5) That the partnership thereby applies for registration as a registered limited liability partnership; and
 - (6) Any other information the partnership determines to include in the application.
2. The application shall be signed on behalf of the partnership by a majority of the partners or by one or more partners authorized by a majority in interest of the partners to sign the application on behalf of the partnership.
3. The application shall be accompanied by a fee payable to the secretary of state of twenty-five dollars for each partner of the partnership, but the fee shall not exceed one hundred dollars. All moneys from the payment of this fee shall be deposited into the general revenue fund.
4. A person who files a document according to this section as an agent or fiduciary need not exhibit evidence of the partner's authority as a prerequisite to filing. Any signature on such document may be a facsimile. If the secretary of state finds that the filing conforms to law, the secretary of state shall:
- (1) Endorse on [each] **the** copy the word "Filed" and the month, day and year of the filing;
 - (2) File the original in the secretary of state's office; and
 - (3) Return the [other] copy to the person who filed it or to the person's representative.
5. A partnership becomes a registered limited liability partnership on the date of the filing in the office of the secretary of state of an application that, as to form, meets the requirements of subsections 1 and 2 of this section and that is accompanied by the fee specified in subsection 3 of this section, or at any later time specified in the application.
6. An initial application filed under subsection 1 of this section by a partnership registered by the secretary of state as a limited liability partnership expires one year after the date of registration unless earlier withdrawn or revoked or unless renewed in accordance with subsection 9 of this section.
7. If a person is included in the number of partners of a registered limited liability partnership set forth in an application, a renewal application or a certificate of amendment of an application or a renewal application, the inclusion of such person shall not be admissible as evidence in any action, suit or proceeding, whether civil, criminal, administrative or investigative, for the purpose of determining whether such person is liable as a partner of such registered limited liability partnership. The status of a partnership as a registered limited liability partnership and the liability of a partner of such registered limited liability partnership shall not be adversely affected if the number of partners stated in an application, a renewal application or a certificate of amendment of an application or a renewal application is erroneously stated provided that the application, renewal application or certificate of amendment of an application or a renewal application was filed in good faith.
8. Any person who files an application or a renewal application in the office of the secretary of state pursuant to this section shall not be required to file any other documents pursuant to chapter 417, RSMo, which requires filing for fictitious names.
9. An effective registration may be renewed before its expiration by filing in duplicate with the secretary of state an application containing current information of the kind required in an initial application, including the registration number as assigned by the secretary of state. The renewal application shall be accompanied by a fee of one hundred dollars on the date of renewal plus, if the renewal increases the number of partners, fifty dollars for each partner added, but the fee shall not exceed two hundred dollars. All moneys from such fees shall be deposited into the general revenue fund. A renewal application filed under this section continues an effective registration for one year after the date the effective registration would otherwise expire.

10. A registration may be withdrawn by filing [in duplicate] with the secretary of state a written withdrawal notice signed on behalf of the partnership by a majority of the partners or by one or more partners authorized by a majority of the partners to sign the notice on behalf of the partnership. A withdrawal notice shall include the name of the partnership, the date of registration of the partnership's last application under this section, and a current street address of the partnership's principal office in this state or outside the state, as applicable. A withdrawal notice terminates the registration of the partnership as a limited liability partnership as of the date of filing the notice in the office of the secretary of state. The withdrawal notice shall be accompanied by a filing fee of twenty dollars.

11. If a partnership that has registered pursuant to this section ceases to be registered as provided in subsection 6 or 10 of this section, that fact shall not affect the status of the partnership as a registered limited liability partnership prior to the date the partnership ceased to be registered pursuant to this section.

12. A document filed under this section may be amended or corrected by filing [in duplicate] with the secretary of state articles of amendment, signed by a majority of the partners or by one or more partners authorized by a majority of the partners. The articles of amendment shall contain:

- (1) The name of the partnership;
- (2) The identity of the document being amended;
- (3) The part of the document being amended; and
- (4) The amendment or correction.

The articles of amendment shall be accompanied by a filing fee of twenty dollars plus, if the amendment increases the number of partners, fifty dollars for each partner added, but the fee shall not exceed two hundred dollars; provided that no amendment of an application or a renewal application is required as a result of a change after the application or renewal application is filed in the number of partners of the registered limited liability partnership or in the business in which the registered limited liability partnership engages. All moneys from such fees shall be deposited into the general revenue fund. The status of a partnership as a registered limited liability partnership shall not be affected by changes after the filing of an application or a renewal application in the information stated in the application or renewal application.

13. No later than ninety days after the happening of any of the following events, an amendment to an application or a renewal application reflecting the occurrence of the event or events shall be executed and filed by a majority in interest of the partners or by one or more partners authorized by a majority of the partners to execute an amendment to the application or renewal application:

- (1) A change in the name of the registered limited liability partnership;
- (2) Except as provided in subsections 2 and 3 of section 358.470, a change in the address of the registered office or a change in the name or address of the registered agent of the registered limited liability partnership.

14. Unless otherwise provided in this chapter or in the certificate of amendment of an application or a renewal application, a certificate of amendment of an application or a renewal application or a withdrawal notice of an application or a renewal application shall be effective at the time of its filing with the secretary of state.

15. The secretary of state may provide forms for the application specified in subsection 1 of this section, the renewal application specified in subsection 9 of this section, the withdrawal notice specified in subsection 10 of this section, and the amendment or correction specified in subsection 12 of this section.

16. The secretary of state may remove from its active records the registration of a partnership whose registration has been withdrawn, revoked or has expired.

17. The secretary of state may revoke the filing of a document filed under this section if the secretary of state determines that the filing fee for the document was paid by an instrument that was dishonored when presented by the state for payment. The secretary of state shall return the

document and give notice of revocation to the filing party by regular mail. Failure to give or receive notice does not invalidate the revocation. A revocation of a filing does not affect an earlier filing.

18. If any person signs a document required or permitted to be filed pursuant to sections 358.440 to 358.500 which the person knows is false in any material respect with the intent that the document be delivered on behalf of a partnership to the secretary of state for filing, such person shall be guilty of a class A misdemeanor. Unintentional errors in the information set forth in an application filed pursuant to subsection 1 of this section, or changes in the information after the filing of the application, shall not affect the status of a partnership as a registered limited liability partnership.

19. Before transacting business in this state, a foreign registered limited liability partnership shall:

(1) Comply with any statutory or administrative registration or filing requirements governing the specific type of business in which the partnership is engaged; and

(2) Register as a limited liability partnership as provided in this section by filing an application which shall, in addition to the other matters required to be set forth in such application, include a statement:

(a) That the secretary is irrevocably appointed the agent of the foreign limited liability partnership for service of process if the limited liability partnership fails to maintain a registered agent in this state or if the agent cannot be found or served with the exercise of reasonable diligence; and

(b) Of the address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited liability partnership.

20. A partnership that registers as a limited liability partnership shall not be deemed to have dissolved as a result thereof and is for all purposes the same partnership that existed before the registration and continues to be a partnership under the laws of this state. If a registered limited liability partnership dissolves, a partnership which is a successor to such registered limited liability partnership and which intends to be a registered limited liability partnership shall not be required to file a new registration and shall be deemed to have filed any documents required or permitted under this chapter which were filed by the predecessor partnership.

358.460. RESERVATION OF EXCLUSIVE RIGHT TO USE OF A NAME, PROCEDURE TO RESERVE, TIME PERIOD — FEE — TRANSFER OF NAME PERMITTED — CANCELLATION, PROCEDURE, FEE. — 1. The exclusive right to the use of a name of a registered limited liability partnership or foreign registered limited liability partnership may be reserved by:

(1) Any person intending to become a registered limited liability partnership or foreign registered limited liability partnership under this chapter and to adopt that name; and

(2) Any registered limited liability partnership or foreign registered limited liability partnership which proposes to change its name.

2. The reservation of a specified name shall be made by filing with the secretary of state an application, executed by the applicant, specifying the name to be reserved and the name and address of the applicant. If the secretary of state finds that the name is available for use by a registered limited liability partnership or foreign registered limited liability partnership, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of [one hundred twenty] **sixty** days. [Once having so reserved a name, the same applicant may again reserve the same name for successive one hundred twenty-day periods.] **A name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application. Upon the one hundred eighty-first day the name shall cease reserve status and shall not be placed back in such status.** The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved,

specifying the name to be transferred and the name and address of the transferee. The reservation of a specified name may be canceled by filing with the secretary of state a notice of cancellation, executed by the applicant or transferee, specifying the name reservation to be canceled and the name and address of the applicant or transferee.

3. A fee in the amount of twenty-five dollars shall be paid to the secretary of state upon receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation pursuant to this section. All moneys from the payment of this fee shall be deposited into the general revenue fund.

358.490. FEES CHARGED FOR COPIES OF PARTNERSHIP PAPERS FILED WITH SECRETARY OF STATE — CERTIFICATE OF GOOD STANDING OF PARTNERSHIP MAY BE ISSUED BY SECRETARY OF STATE, FEE. — 1. A fee in the amount of five dollars shall be paid to the secretary of state for a certified copy of any paper on file as provided for by this chapter[, and a fee in the amount of five dollars for the first page and] **in a written electronic format**. One dollar for each additional page shall be paid to the secretary of state [for the use of the state of Missouri for each page copied] **for written requests**. Moneys from such fees shall be paid into the general revenue fund.

2. The secretary of state may issue certificates of good standing relating to the registered limited liability partnerships **in a written or electronic format** for a fee in the amount of [twenty] **five** dollars, except that for issuing [a certificate of good standing] **an abstract** that recites all of the registered limited liability partnership's filings with the secretary of state, a fee of [one hundred] **five** dollars shall be paid to the secretary of state.

359.021. NAME OF LIMITED PARTNERSHIP REGULATED. — The name of each limited partnership as set forth in its certificate of limited partnership:

- (1) Shall contain the words "limited partnership" or the abbreviation "LP" or "L.P.";
- (2) May not contain the name of a limited partner unless:
 - (a) It is also the name of a general partner or the corporate name of a corporate general partner; or
 - (b) The business of the limited partnership has been carried on under that name before the admission of that limited partner;
- (3) Shall be distinguishable from the name of any domestic corporation, limited partnership, **limited liability partnership, or limited liability limited partnership**, or limited liability company existing under the law of this state or any foreign corporation, foreign limited partnership, **foreign limited liability partnership, or foreign limited liability limited partnership**, or foreign limited liability company authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter **or any other business entity organized, reserved, or registered under the laws of this state**. If the name is the same, a word must be added to make such name distinguishable from the name of such other corporation, limited liability company, **limited liability partnership, or limited liability limited partnership**, or limited partnership;
- (4) May not contain the following words: "corporation", "incorporated", or an abbreviation of one of such words;
- (5) May not contain any word or phrase which indicates or implies that it is a governmental agency.

359.031. RESERVATION OF RIGHT TO EXCLUSIVE USE OF NAME. — 1. The exclusive right to the use of a name may be reserved by:

- (1) Any person intending to organize a limited partnership under this chapter and to adopt that name;
- (2) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

(3) Any foreign limited partnership intending to register in this state and adopt that name; and

(4) Any person intending to organize a foreign limited partnership and intending to have it register in this state and adopt that name.

2. The reservation shall be made by filing with the secretary of state an application, in a form prescribed by the secretary of state, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is not registered with the secretary of state as a fictitious name pursuant to section [417.215] **417.210**, RSMo, as a corporation name or a limited partnership name, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of sixty days. **A name reservation shall not exceed a period of one hundred eighty days from the date of the first name reservation application. Upon the one hundred eighty-first day the name shall cease reserve status and shall not be placed back in such status.** The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

359.041. REGISTERED AGENT AND REGISTERED OFFICE — PROCEDURE FOR CHANGING, FILED BY LIMITED PARTNERSHIP, FILED BY REGISTERED AGENT — EFFECTIVE WHEN — FAILURE TO MAINTAIN, EFFECT. — 1. Each limited partnership shall continuously maintain in this state:

(1) A registered office which may be, but need not be, a place of its business in this state; and

(2) A registered agent for service of process on the limited partnership, which agent may be either an individual, resident in this state, whose business office is identical with such registered office, or a domestic corporation or a foreign corporation authorized to do business in this state, whose business office is identical with such registered office.

2. A limited partnership may from time to time change the address of its registered office. A limited partnership shall change its registered agent if the office of registered agent shall become vacant for any reason, if its registered agent becomes disqualified or incapacitated to act, or if the limited partnership revokes the appointment of its registered agent. A limited partnership may change the address of its registered office or change its registered agent, or both, by filing in the office of the secretary of state, on a form approved by the secretary of state, a statement setting forth:

- (1) The name of the limited partnership;
- (2) The address, including street and number, if any, of its then registered office;
- (3) If the address of its registered office be changed, the address, including street and number, if any, to which the registered office is to be changed;
- (4) The name of its then registered agent;
- (5) If its registered agent be changed, the name of its successor registered agent and the successor registered agent's written consent to the appointment either on the statement or attached thereto;
- (6) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and
- (7) That such change was authorized by the limited partnership.

3. Such statement shall be executed in duplicate by the limited partnership by a general partner, and delivered to the secretary of state. The execution of such a statement by a general partner constitutes an affirmation under the penalties of [perjury] **section 575.040, RSMo**, that the facts stated therein are true. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall file the same, keeping the original and returning the other copy to the limited partnership or to its representative.

4. The change of address of the registered office, or the change of the registered agent, or both, as the case may be, shall become effective upon the filing of such statement by the secretary of state. The location or residence of any limited partnership shall be deemed for all purposes to be in the county where its registered office is maintained.

5. If a registered agent changes the street address of his business office, he may change the street address of the registered office of any limited partnership for which he is the registered agent by notifying the limited partnership in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection 2 of this section and recites that the limited partnership has been notified of the change. The change of address of the registered office shall become effective upon the filing of the statement to the secretary of state.

6. In the event that a limited partnership shall fail to appoint or maintain a registered agent in this state, then the secretary of state, as long as such default exists, shall be automatically appointed as an agent of such limited partnership upon whom any process, notice, or demand required or permitted by law to be served upon the limited partnership may be served. Service on the secretary of state of any process, notice or demand against a limited partnership shall be made by delivering to and leaving with the secretary of state, or with any clerk having charge of the limited partnership department of the secretary of state's office, a copy of such process, notice or demand. In the event that any process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by registered mail, addressed to the limited partnership at its registered office in this state. Nothing herein contained shall limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited partnership in any other manner now or hereafter permitted by law.

359.121. EXECUTION OF CERTIFICATE. — 1. Each certificate required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner:

- (1) An original certificate of limited partnership must be signed by all general partners;
- (2) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner;
- (3) A certificate of cancellation must be signed by all general partners.

2. Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner shall specifically describe the admission.

3. The execution of a certificate by a general partner constitutes an affirmation under the penalties of [perjury] **section 575.040, RSMo**, that the facts stated therein are true.

359.141. FILING WITH SECRETARY OF STATE — DUTIES OF SECRETARY — EFFECTIVE DATE OF FILING. — 1. [Duplicate originals or the] **An** original [and a] copy of the certificate of limited partnership and of any certificates of amendment or cancellation (or of any judicial decree of amendment or cancellation) shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law, he shall:

- (1) Endorse on [each copy] **the document** the word "Filed" and the day, month and year of the filing thereof;
- (2) File the original in his office; and
- (3) Return [the other] **a** copy to the person who filed it or his representative.

2. Upon the filing of a certificate of amendment (or judicial decree of amendment) in the office of the secretary of state, the certificate of limited partnership shall be amended as set forth therein, and upon the effective date of a certificate of cancellation (or a judicial decree thereof), the certificate of limited partnership is canceled; however, any such certificate of amendment or cancellation may provide that it is not to become effective until a specified date after its filing

date, but such date shall not be more than ninety days after its filing date and the certificate issued by the secretary of state shall indicate such defined effective date.

359.145. STATEMENT OF CORRECTION AUTHORIZED, WHEN — CONTENTS — EFFECTIVE DATE — FEE — REQUIRED SIGNATURE. — 1. A domestic or foreign limited partnership may file a statement of correction in a format prescribed by the secretary of state, if the document contains an incorrect statement as of the date such document was filed.

2. The statement of correction shall:

- (1) State the name of the limited partnership;**
- (2) State the type of document being corrected;**
- (3) State the name of the jurisdiction under the law of organization;**
- (4) Describe the incorrect statement and the reason for the correction;**
- (5) If the correction is for a foreign limited partnership with regard to an incorrect name, provide a certificate of existence, or document of similar import, duly authenticated by the secretary of state or other official having custody of the records in the state or country under whose laws it is registered;**

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons articles of correction are effective when filed.

4. The secretary of state shall collect a filing fee of five dollars upon filing the statement of correction.

5. The statement of correction shall be signed by an authorized person of the limited liability partnership.

359.172. REGISTERED LIMITED LIABILITY LIMITED PARTNERSHIP, REQUIREMENTS, FAILURE TO FILE TIMELY AMENDMENT TO CERTIFICATE, PENALTY. — 1. To become and to continue as a registered limited liability limited partnership, a limited partnership shall, in addition to complying with the requirements of this chapter:

(1) File an application or a renewal application, as the case may be, as provided in section 358.440, RSMo, as permitted by the limited partnership's partnership agreement or, if the limited partnership's partnership agreement does not provide for the limited partnership's becoming a registered limited liability limited partnership, with the approval by all general partners and the limited partners, or, if there is more than one class or group of limited partners, then by each class or group of limited partners, in either case, by limited partners who own more than fifty percent of the then current percentage or other interest in the profits of the limited partnership owned by all of the limited partners in each class or group, as appropriate;

(2) Comply with sections 358.440 to 358.501, RSMo; and

(3) Have as the last words or letters of its name the words "Registered Limited Liability Limited Partnership", or the abbreviation "L.L.L.P.", or the designation "LLLP".

2. In applying sections 358.440 to 358.501, RSMo, to a limited partnership:

(1) An application to become a registered limited liability limited partnership, a renewal application to continue as a registered limited liability limited partnership, a certificate of amendment of an application or a renewal application, or a withdrawal notice of an application or a renewal application shall be executed by at least one general partner of the limited partnership; and

(2) All references to partners mean general partners only.

3. If a limited partnership is a registered limited liability limited partnership, its partners who are liable for the debts, liabilities and other obligations of the limited partnership shall have the limitation on liability afforded to partners of registered limited liability partnerships pursuant to chapter 358, RSMo.

4. The filing of an application to become a registered limited liability limited partnership shall constitute the filing of an amendment to the limited partnership's certificate of limited partnership for the purposes of causing the name of the limited partnership to comply with the provisions of subdivision (3) of subsection 1 of this section. In the event a limited partnership ceases to be registered in this state as limited liability limited partnership for any reason, the limited partnership shall, within ninety days thereafter, file an amendment to its certificate of limited partnership correcting the designation set forth in subdivision (3) of subsection 1 of this section. In the event the limited partnership fails to timely file an amendment to its certificate of limited partnership as required pursuant to this subsection, the general partners in office at such time may be individually subject to a civil penalty in the amount of ten dollars per [day] **month** for each [day] **month** the amendment has not been timely filed, but not to exceed ten thousand dollars, such penalty to be assessed and collected by the secretary, and prosecuted criminally pursuant to section 359.691 with any resulting conviction being a class B misdemeanor and the secretary shall be authorized to file a notice to change the name of the limited partnership to remove the designation required pursuant to subsection 1 of this section.

359.501. REGISTRATION WITH SECRETARY OF STATE — FORM — CONTENTS. — Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state[, in duplicate,] an application for registration as a foreign limited partnership, signed [and sworn to] by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state and date of its formation;

(3) The name and address of its registered agent and registered office in this state which office and agent shall be subject to the same rights and limitations as provided in section 359.041;

(4) A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under subdivision (3) of this section or, if appointed, the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(5) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

(6) The name and business address of each general partner; [and]

(7) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled; and

(8) **The application shall include a certificate of existence or document of similar import duly authenticated by the secretary of state or other official having custody of the records in the state or country whose laws it is registered, such document should be dated within sixty calendar days from filing for acceptance.**

359.531. CHANGES AND AMENDMENTS IN REGISTRATION, WHEN, CONTENTS — FOREIGN CERTIFICATION INCLUDED — FEE. — [If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting such statement.] **1. A foreign limited partnership authorized to transact business in this state shall obtain an amended certificate of registration from the secretary of state if it changes:**

- (1) The name of the limited partnership;
- (2) The state or country of its registration;
- (3) The address of the office required to be maintained in the state of its organization by the laws of that state or if not so required of the principal office of the foreign limited partnership;
- (4) The name and business address of any general partner; and
- (5) The address of the office at which is kept a list of the names and addresses and capital contributions of the limited partners.

2. The amendment shall include a certificate of existence or document of similar import duly authenticated by the secretary of state or other official having custody of the records in the state or country under whose laws it is registered, such document should be dated within sixty calendar days from filing for acceptance.

3. The fee for filing an amended certificate of registration shall be twenty dollars.

359.541. CANCELLATION OF REGISTRATION — AUTHORITY OF SECRETARY TO ACCEPT SERVICE OF PROCESS. — A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed [and sworn] to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in this state.

417.210. REGISTRATION, WHEN AND HOW — CONTENTS — CANCELLATION OF FICTITIOUS NAME — OWNERSHIP REFLECTED IN REGISTRATION, WHEN — REGISTRATION EFFECTIVE AND EXPIRATION DATES — RENEWALS, CONTENTS, EFFECTIVE DATE. — 1. Every person, general partnership, corporation, or other business organization who engages in business in this state under a fictitious name or under any name other than the true name of such person, general partnership, corporation, or other business [organization] **entity** shall, within five days after the beginning or engaging in business under such fictitious name[, execute the form] **shall file in a format as prescribed by the secretary of state. The execution of the filing** required in this section, and shall be subject to the penalties of making a false declaration pursuant to section 575.060, RSMo, that the facts stated therein are true and that all parties concerned are duly authorized to execute such document and are otherwise required to file such document pursuant to this section [upon fictitious name forms furnished by the secretary of state, such partnership or other fictitious name in the office of the secretary of state, together with the name or names and the residence of each and every person, partnership, corporation, or other business organization interested in or owning any part of the business; provided, that if the interest of any owner shall cease to exist, or any other person, partnership, corporation, or other entity shall become an owner, such fictitious name shall be reregistered within five days after any such change shall take place in the ownership of the business or any part thereof as set forth in the original registration, and such reregistration shall in all respects be made as in the case of an original registration of such fictitious name; provided, that the provisions of this section shall not apply to farmers' mutual insurance companies nor farmers' mutual telephone companies].

2. A fictitious name shall not contain any word or phrase that indicates or implies that it is any governmental agency or that is seriously misleading.

3. This registration shall state:

- (a) The fictitious name;
- (b) The physical business address;
- (c) The name or names and the residence or business address of every party owning any interest or part in the business.

4. If the business or owner or owners interest ceases to exist or change within five days of such change, it shall be required to file a cancellation of the fictitious name in a

format prescribed by the secretary of state and if desired may file a new registration of a new fictitious name as prescribed in this section.

5. If the interest of any owner of a business conducted under a fictitious name registered as provided in this section is such that such owner may claim not to be jointly and severally liable to third parties with respect to debts and obligations incurred by such business, the registration relating to such business shall reflect the respective exact ownership interests of each owner of such business. In the case of any other business registered as provided in this section, disclosure of the respective exact ownership interests shall be optional.

[3.] 6. For purposes of this section, a partnership or other entity formed for the practice of a licensed profession shall not be deemed to be engaged in the conduct of business, notwithstanding the transaction by such entity of business ancillary to the practice of such licensed profession.

7. All fictitious name registrations filed on or after the effective date of this section shall be governed by the provisions of this section and shall remain active on the record of the secretary of state for a period of five years. Such registered fictitious name filing shall expire at the end of the five-year period unless a renewal is filed under subsection 9 of this section.

8. All active fictitious name registrations filed prior to the effective date of this section shall remain active on the record of the secretary of state for a period of five years. Such registered fictitious name filing shall expire at the end of the five-year period unless a renewal is filed under subsection 9 of this section.

9. A renewal filing shall be filed in a format prescribed by the secretary of state within six months prior to the expiration date of the fictitious name registration. Such renewal filing shall state:

- (a) The fictitious name and assigned charter number;
- (b) The physical business address;
- (c) The name or names and the residence or business address of every party owning any interest or part in the business.

10. A renewal filing continues the effective registration of the fictitious name for five years after the date the effective registration would otherwise expire.

11. Fictitious name registrations filed before the effective date of this section shall be inactivated by the secretary of state on or after August 28, 2009, unless a renewal filing is filed under subsection 9 of this section.

12. The secretary of state may remove from its active records the registration of a fictitious name filing whose registration has been withdrawn, cancelled, or has expired.

417.217. FOREIGN CORPORATIONS, REGISTRATION, WHEN — EXEMPTION FROM, WHEN. — Foreign [corporations] **business entities** which [act as a general partner of any general or limited partnership] **have any owning interest or part in this business may be** required to register [under this act or which are interested in or own any part of any other business required to register hereunder shall] **with the secretary of state as prescribed. The foreign business entity may be required to** first obtain a certificate of authority [pursuant to subsection 1 of section 351.572, RSMo, unless exempted by subsection 2 of section 351.572, RSMo] **unless otherwise exempt by Missouri law.**

417.220. REGISTRATION FEE. — For the registration **or renewal** of each fictitious name [as in] **under** sections 417.200 to 417.230 [required,] there shall be paid to the state director of revenue a fee of two dollars **if filed electronically in a format prescribed by the secretary of state or if filed in a written format prescribed by the secretary of state.**

[347.159. CERTIFICATE OF CORRECTION OF REGISTRATION. — If any statement in the application for registration of a foreign limited liability company was erroneous when made or

any arrangements or other facts described have changed, making the application inaccurate in any respect, a foreign limited liability company shall promptly file with the secretary a certificate of correction setting forth the information required by section 347.055 correcting such statement, signed and acknowledged on its behalf by a manager, member or other authorized agent.]

[417.215. REGISTRATION OF LIMITED PARTNERSHIPS, WHEN, HOW, CONTENTS. — Every limited partnership which shall engage in business in this state prior to January 1, 1987, shall, within five days after beginning or engaging in business, register by verified statement of a general partner who is empowered to act on behalf of the limited partnership, upon blanks furnished by the secretary of state, the name and address of the limited partnership, the names and addresses of all general partners, the county and the state in which the limited partnership certificate is filed, and the book and page number where such certificate may be found, in the office of the secretary of state; provided, that if an amendment to such certificate reflecting the admission or withdrawal of any general partner in such limited partnership is filed with the appropriate recorder of deeds or other filing authority, the secretary of state shall be informed of such filing, including the book and page number of such amended certificate, in the manner required in a new registration.]

Approved July 2, 2004

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SB 730 [CCS HS HCS SS SCS SB 730]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Missouri Homestead Preservation Act.

AN ACT to amend chapter 137, RSMo, by adding thereto one new section relating to a homestead exemption for the elderly, with an effective date and sunset provisions.

SECTION

A. Enacting clause.

137.106. Homestead preservation — definitions — homestead exemption credit received, when, application process — assessor's duties — department of revenue duties — exemption limit set, when, how applied — rulemaking authority — sunset provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 137, RSMo, is amended by adding thereto one new section, to be known as section 137.106, to read as follows:

137.106. HOMESTEAD PRESERVATION — DEFINITIONS — HOMESTEAD EXEMPTION CREDIT RECEIVED, WHEN, APPLICATION PROCESS — ASSESSOR'S DUTIES — DEPARTMENT OF REVENUE DUTIES — EXEMPTION LIMIT SET, WHEN, HOW APPLIED — RULEMAKING AUTHORITY — SUNSET PROVISION. — **1. This section may be known and may be cited as "The Missouri Homestead Preservation Act".**

2. As used in this section, the following terms shall mean:

(1) "Department", the department of revenue;
(2) "Director", the director of revenue;
(3) "Disabled", as such term is defined in section 135.010, RSMo;
(4) "Eligible owner", any individual owner of property who is sixty-five years old or older as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to subsection 4 of this section; in the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to subsection 4 of this section did not exceed the maximum upper limit; no individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year, not including the year in which the application was completed, shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person qualifies for the senior citizen property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not

including improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection 8 of this section;

(7) "Income", federal adjusted gross income;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. Any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

- (1) To the applicant's age;
- (2) That the applicant's prior year income was less than the maximum upper limit;
- (3) To the address of the homestead property; and
- (4) That any improvements made to the homestead did not total more than five percent of the prior year appraised value.

The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. The assessor, upon receiving an application, shall:

- (1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;
- (2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks;
- (3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and
- (4) Sign the application, certifying the accuracy of the assessor's entries.

6. Each applicant shall send the application to the department by September thirtieth of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

7. Upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens

property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income is verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax due for the tax year that ended immediately prior; such eligible owners shall be disqualified from receiving the credit in the current tax year.

8. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

9. If, in any given year, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

10. After setting the homestead exemption limit, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's funds of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues, so as to exactly offset each homestead exemption credit being issued.

11. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section

536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

12. In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to the mailing of the tax bill, the credit shall be void and any corresponding moneys, pursuant to subsection 10 of this section, shall lapse to the state to be credited to the general revenue fund.

13. In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal.

Approved June 28, 2004

SB 732 [HCS SS SB 732]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to recreation and entertainment districts.

AN ACT to repeal sections 67.1706 and 67.1754, RSMo, and to enact in lieu thereof nine new sections relating to recreation and entertainment districts.

SECTION

- A. Enacting clause.
- 67.1706. District to develop, operate and maintain system of interconnecting trails and parks — power to contract with other parks.
- 67.1754. Sales tax, how allocated.
- 67.2500. Establishment of a district, where — definitions (St. Charles County).
- 67.2505. Purpose of district — name — size — subdistricts permitted — procedure for establishment of a district.
- 67.2510. Alternative procedure for establishment of a district.
- 67.2515. Petition, contents, notice — hearing — district declared organized, when.
- 67.2520. Election conducted, when — sales tax vote, amount — ballot form.
- 67.2525. Board of directors, qualifications — subdivision of district, how — powers and duties of the board.
- 67.2530. Refund of district indebtedness, when, how — imposition of a sales tax authorized — deposit and use of sales tax revenue — repeal of sales tax, ballot form.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1706 and 67.1754, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 67.1706, 67.1754, 67.2500, 67.2505, 67.2510, 67.2515, 67.2520, 67.2525, and 67.2530, to read as follows:

67.1706. DISTRICT TO DEVELOP, OPERATE AND MAINTAIN SYSTEM OF INTERCONNECTING TRAILS AND PARKS — POWER TO CONTRACT WITH OTHER PARKS. — The metropolitan district shall have as its [primary] duty the development, operation and maintenance of a public system of interconnecting trails and parks throughout the counties comprising the district. **Nothing in this section shall restrict the district's entering into and initiating projects dealing with parks not necessarily connected to trails.** The metropolitan district shall supplement but shall not substitute for the powers and responsibilities of the other parks and recreation systems within the metropolitan district **or other conservation and environmental regulatory agencies** and shall have the power to contract with other parks and recreation systems as well as with other public and private entities. **Nothing in this section shall give the metropolitan district authority to regulate water quality, watershed or land use issues in the counties comprising the district.**

67.1754. SALES TAX, HOW ALLOCATED. — The sales tax authorized in sections 67.1712 to 67.1721 shall be collected and allocated as follows:

(1) Fifty percent of the sales taxes collected from each county shall be deposited in the metropolitan park and recreational fund to be administered by the board of directors of the district to pay costs associated with the establishment, administration, operation and maintenance of public recreational facilities, parks, and public recreational grounds associated with the district. Costs for office administration beginning in the second fiscal year of district operations may be up to but shall not exceed fifteen percent of the amount deposited pursuant to this subdivision;

(2) Fifty percent of the sales taxes collected from each county shall be returned to the source county for park purposes, except that forty percent of such fifty percent amount shall be reserved for distribution to municipalities within the county in the form of grant revenue sharing funds. Each county in the district shall establish its own process for awarding the grant proceeds to its municipalities for park purposes **provided the purposes of such grants are consistent with the purpose of the district.** In the case of a county of the first classification with a charter form of government having a population of at least nine hundred thousand inhabitants, such grant proceeds shall be awarded to municipalities by a municipal grant commission as described in section 67.1757.

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS (ST. CHARLES COUNTY). — 1. The governing body of any city, town, or village that is within a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505.

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — 1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The time frame and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in section 67.2520 shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in section 67.2520, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax, by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, a circuit court with jurisdiction over any city, town, or village that is within a first class county with a charter form of government with a population over two hundred fifty thousand that adjoins a first class county with a charter form of government with a population over nine hundred thousand, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515.

67.2515. PETITION, CONTENTS, NOTICE — HEARING — DISTRICT DECLARED ORGANIZED, WHEN. — **1.** Whenever the creation of a theater, cultural arts, and entertainment district is desired, one or more registered voters from each subdistrict of the proposed district, or if there are no registered voters in a subdistrict, one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district may file a petition with the circuit court requesting the creation of a theater, cultural arts, and entertainment district. The petition shall contain the following information:

- (1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;
- (2) The name of the proposed district;
- (3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;
- (4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;
- (5) A request that the district be established;
- (6) A general description of the activities that are planned for the district;
- (7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposing of the sales tax be submitted to the qualified voters within the district;
- (8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;
- (9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;
- (10) A signed statement that the petitioners are authorized to submit the petition to the circuit court; and
- (11) Any other items the petitioners deem appropriate.

2. The circuit clerk of the county in which the petition is filed pursuant to this section shall present the petition to the judge, who shall thereupon set the petition for hearing not less than thirty days nor more than forty days after the filing. The judge shall cause publication of the notice of the hearing on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing. The notice shall recite the following information:

- (1) A description of the boundaries of the proposed district and each subdistrict;
 - (2) The time and place of a hearing to be held to consider establishment of the proposed district;
 - (3) The timeframe and manner for the filing of the petitions or answers in the case;
 - (4) The proposed sales tax rate to be voted on within the subdistricts of the proposed district;
 - (5) The proposed uses for the revenue generated by the new sales tax; and
-

(6) Such other matters as the circuit court may deem appropriate.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

3. Any registered voter or owner of real property within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a judgment respecting these same issues; provided, however, that all pleadings must be filed with the court no later than five days before the case is heard.

4. The court shall hear the case without a jury. If the court determines the petition is defective or the proposed district or its plan of operation is unconstitutional, it shall enter its judgment to that effect and shall refuse to incorporate the district as requested in the pleadings. If the court determines the petition is not legally defective and the proposed district and plan of operation are not unconstitutional, the court shall order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the circuit clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the circuit judge. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

5. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the circuit judge shall establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by issuing an order to that effect. The court shall determine and declare the district organized and incorporated and issue an order that includes the following:

- (1) The description of the boundaries of the district and each subdistrict;
- (2) A statement that a theater, cultural arts, and entertainment district has been established;
- (3) A declaration that the district is a political subdivision of the state;
- (4) The name of the district;
- (5) The date on which the sales tax election in the subdistricts was held, and the result of the election;
- (6) The uses for any revenue generated by a sales tax imposed pursuant to this section;
- (7) A certification to the newly created district of the election results, including the election concerning the sales tax; and
- (8) Such other matters as the circuit court deems appropriate.

6. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax in the proposed subdistrict before the voters of a proposed subdistrict, and the circuit clerk shall conduct the subsequent election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

7. Any party having filed a petition or answer to a petition may appeal the circuit court's order or judgment in the same manner as provided for other appeals. Any order

either refusing to incorporate the district or incorporating the district shall be a final judgment for purposes of appeal.

67.2520. ELECTION CONDUCTED, WHEN — SALES TAX VOTE, AMOUNT — BALLOT FORM. — 1. If a governing body or circuit court judge has certified the question regarding the district creation and sales tax funding for voter approval, the municipal clerk in which the district is located, or the circuit clerk if the order and certification has been by a circuit judge, shall conduct the election. The questions shall be submitted to the qualified voters of each subdistrict within the district boundaries who have filed an application pursuant to this section. The municipal clerk, or the circuit clerk if the district is being formed by the circuit court, shall publish notice of the election in at least one newspaper of general circulation in the county where the proposed district is located, with the publication to occur not more than fifteen days but not less than ten days before the date when applications for ballots will be accepted. The notice shall include a description of the district boundaries, the timeframe and manner of applying for a ballot, the questions to be voted upon, and where and when applications for ballots will be accepted. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall also send a notice of the election to all registered voters in the proposed district, which shall include the information in the published notice. The costs of printing and publication of the notice, and mailing of the notices to registered voters, shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

2. For elections held in subdistricts pursuant to this section, if all the owners of property in a subdistrict joined in the petition for formation of the district, such owners may cast their ballot by unanimous petition approving any measure submitted to them as subdistrict voters pursuant to this section. Each owner shall receive one vote per acre owned. Fractional votes shall be allowed. The petition shall be submitted to the municipal clerk, or the circuit court clerk if the district is being formed by the circuit court, who shall verify the authenticity of all signatures thereon. The filing of a unanimous petition shall constitute an election in the subdistrict under this section and the results of said election shall be entered pursuant to this section.

3. The sales tax shall be not more than one-half of one percent on all retail sales within the district, which are subject to taxation pursuant to section 67.2530, to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

4. Application for a ballot shall be made as provided in this subsection:

(1) Persons entitled to apply for a ballot in an election shall be:

(a) A resident registered voter of the district; or

(b) If there are no registered voters in a subdistrict, a person, including a corporation or other entity, which owns real property within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. Each property owner shall receive one vote;

(2) Only persons entitled to apply for a ballot in elections pursuant to this subsection shall apply. Such persons shall apply with the municipal clerk, or the circuit clerk if the district is formed by the circuit court. Each person applying shall provide:

(a) Such person's name, address, mailing address, and phone number;

(b) An authorized signature; and

- (c) Evidence that such person is entitled to vote. Such evidence shall be a copy of:
- For resident individuals, proof of registration from the election authority;
 - For owners of real property, a tax receipt or deed or other document which evidences an equitable ownership, and identifies the real property by location;

(3) Applications for ballot applications shall be made not later than the fourth Tuesday before the ballots are mailed to qualified electors. The ballot of submission shall be in substantially the following form:

"Shall there be organized in (here specifically describe the proposed district boundaries), within the state of Missouri, a district, to be known as the "..... Theater, Cultural Arts, and Entertainment District" for the purpose of funding, promoting, and providing educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and funding, promoting, planning, designing, constructing, improving, maintaining, and operating public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Shall the (name of district) impose a sales tax of (insert rate) to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO";

(4) Not sooner than the fourth Tuesday after the deadline for applying for ballots, the municipal clerk, or the circuit clerk if the district is being formed by the circuit court, shall mail a ballot to each qualified voter who applied for a ballot pursuant to this subsection along with a return addressed envelope directed to the municipal clerk or the circuit clerk's office, with a sworn affidavit on the reverse side of such envelope for the voter's signature. Such affidavit shall be in the following form:

"I hereby declare under penalties of perjury that I am qualified to vote, or to affix my authorized signature in the name of an entity which is entitled to vote, in this election.

Authorized Signature

Printed Name of Voter Signature of notary or other officer authorized to administer oaths.

..... Mailing Address of Voter (if different)

Subscribed and sworn to before me this day of....., 20.."

(5) Each qualified voter shall have one vote, except as provided for in section 67.2520. Each voted ballot shall be signed with the authorized signature as provided for in this subsection;

(6) Voted ballots shall be returned to the municipal clerk, or the clerk of the circuit court if the district is being formed by the circuit court, by mail or hand delivery no later than 5:00 p.m. on the fourth Tuesday after the date for mailing the ballots. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall transmit all voted ballots to a board of judges of not less than four, with an equal number from each of the two major political parties. The judges shall be selected by the city, town, or village, or the circuit clerk, from lists compiled by the county election authority. Upon receipt of the voted ballots the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the governing body of the city, town, or village for further action, or the circuit judge for further action if the district is being formed by the circuit

court. Any voter who applied for such election may contest the result in the same manner as provided in chapter 115, RSMo.

67.2525. BOARD OF DIRECTORS, QUALIFICATIONS — SUBDIVISION OF DISTRICT, HOW — POWERS AND DUTIES OF THE BOARD. — 1. Each member of the board of directors shall have the following qualifications:

(1) As to those subdistricts in which there are registered voters, a resident registered voter in the subdistrict that he or she represents, or be a property owner or, as to those subdistricts in which there are not registered voters who are residents, a property owner or representative of a property owner in the subdistrict he or she represents;

(2) Be at least twenty-one years of age and a registered voter in the district.

2. The district shall be subdivided into at least five, but not more than fifteen subdistricts, which shall be represented by one representative on the district board of directors. All board members shall have terms of four years, including the initial board of directors. All members shall take office upon being appointed and shall remain in office until a successor is appointed by the mayor or chairman of the municipality in which the district is located, or elected by the property owners in those subdistricts without registered voters.

3. For those subdistricts which contain one or more registered voters, the mayor or chairman of the city, town, or village shall, with the consent of the governing body, appoint a registered voter residing in the subdistrict to the board of directors.

4. For those subdistricts which contain no registered voters, the property owners who collectively own one or more parcels of real estate comprising more than half of the land situated in each subdistrict shall meet and shall elect a representative to serve upon the board of directors. The clerk of the city, town, or village in which the petition was filed shall, unless waived in writing by all property owners in the subdistrict, give notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, to call a meeting of the owners of real property within the subdistrict at a day and hour specified in a public place in the city, town, or village in which the petition was filed for the purpose of electing members of the board of directors.

5. The property owners, when assembled, shall organize by the election of a temporary chairman and secretary of the meeting who shall conduct the election. An election shall be conducted for each subdistrict, with the eligible property owners voting in that subdistrict. At the election, each acre of real property within the subdistrict shall represent one share, and each owner, including corporations and other entities, may have one vote in person or for every acre of real property owned by such person within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. The results of the meeting shall be certified by the temporary chairman and secretary to the municipal clerk if the district is established by a municipality described in this section, or to the circuit clerk if the district is established by a circuit court.

6. Successor boards shall be appointed or elected, depending upon the presence or absence of resident registered voters, by the mayor or chairman of a city, town, or village described in this section, or the property owners as set forth above; provided, however, that elections held by the property owners after the initial board is elected shall be certified to the municipal clerk of the city, town, or village where the district is located and the board of directors of the district.

7. Should a vacancy occur on the board of directors, the mayor or chairman of the city, town, or village if there are registered voters within the subdistrict, or a majority of the owners of real property in a subdistrict if there are not registered voters in the subdistrict, shall have the authority to appoint or elect, as set forth in this section, an interim director to complete any unexpired term of a director caused by resignation or disqualification.

8. The board shall possess and exercise all of the district's legislative and executive powers, including:

(1) The power to fund, promote and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities within the district;

(2) The power to accept and disburse tax or other revenue collected in the district; and

(3) The power to receive property by gift or otherwise.

9. Within thirty days after the selection of the initial directors, the board shall meet. At its first meeting and annually thereafter the board shall elect a chairman from its members.

10. The board shall appoint an executive director, district secretary, treasurer, and such other officers or employees as it deems necessary.

11. At the first meeting, the board, by resolution, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal.

12. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board, and approve any board resolution.

13. At the first meeting, the board, by resolution, shall receive the certification of the election regarding the sales tax, and may impose the sales tax in all subdistricts approving the imposing sales tax. In those subdistricts that approve the sales tax, the sales tax shall become effective on the first day of the first calendar quarter immediately following the action by the district board of directors imposing the tax.

14. Each director shall devote such time to the duties of the office as the faithful discharge thereof and may require and be reimbursed for his actual expenditures in the performance of his duties on behalf of the district. Directors may be compensated, but such compensation shall not exceed one hundred dollars per month.

15. In addition to all other powers granted by sections 67.2500 to 67.2530, the district shall have the following general powers:

(1) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;

(2) To fix compensation of its employees and contractors;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation, interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a district facility or to assist in such activity;

(4) To acquire, develop, construct, equip, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(5) To collect and disburse funds for its activities;

(6) To collect taxes and other revenues;

(7) To borrow money and incur indebtedness and evidence the same by certificates, notes, bonds, debentures, or refunding of any such obligations for the purpose of paying all or any part of the cost of land, construction, development, or equipping of any facilities or operations of the district;

(8) To own or lease real or personal property for use in connection with the exercise of powers pursuant to this subsection;

(9) To provide for the election or appointment of officers, including a chairman, treasurer, and secretary. Officers shall not be required to be residents of the district, and one officer may hold more than one office;

(10) To hire and retain agents, employees, engineers, and attorneys;

(11) To enter into entertainment contracts binding the district and artists, agencies, or performers, management contracts, contracts relating to the booking of entertainment and the sale of tickets, and all other contracts which relate to the purposes of the district;

(12) To contract with a local government, a corporation, partnership, or individual regarding funding, promotion, planning, designing, constructing, improving, maintaining, or operating a project or to assist in such activity;

(13) To contract for transfer to a city, town, or village such district facilities and improvements free of cost or encumbrance on such terms set forth by contract;

(14) To exercise such other powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

16. A district may at any time authorize or issue notes, bonds, or other obligations for any of its powers or purposes. Such notes, bonds, or other obligations:

(1) Shall be in such amounts as deemed necessary by the district, including costs of issuance thereof;

(2) Shall be payable out of all or any portion of the revenues or other assets of the district;

(3) May be secured by any property of the district which may be pledged, assigned, mortgaged, or otherwise encumbered for payment;

(4) Shall be authorized by resolution of the district, and if issued by the district, shall bear such date or dates, and shall mature at such time or times, but not in excess of forty years, as the resolution shall specify;

(5) Shall be in such denomination, bear interest at such rates, be in such form, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places and subject to redemption as such resolution may provide; and

(6) May be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine.

The provisions of this subsection are applicable to the district notwithstanding the provisions of section 108.170, RSMo.

67.2530. REFUND OF DISTRICT INDEBTEDNESS, WHEN, HOW — IMPOSITION OF A SALES TAX AUTHORIZED — DEPOSIT AND USE OF SALES TAX REVENUE — REPEAL OF SALES TAX, BALLOT FORM. — 1. Any note, bond, or other indebtedness of the district may be refunded at any time by the district by issuing refunding bonds in such amount as the district may deem necessary. Such bonds shall be subject to, and shall have the benefit of the foregoing provisions regarding notes, bonds, and other obligations. Without limiting the generality of the foregoing, refunding bonds may include amounts necessary to finance any premium, unpaid interest, and costs of issuance in connection with the refunding bonds. Any such refunding may be effected whether the bonds to be refunded then shall have matured or thereafter shall mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations being refunded or the exchange of the refunding bonds for the obligations being refunded with the consent of the holders of the obligations being refunded.

2. Notes, bonds, or other indebtedness of the district shall be exclusively the responsibility of the district payable solely out of the district funds and property and shall not constitute a debt or liability of the state of Missouri or any agency or political subdivision of the state. Any notes, bonds, or other indebtedness of the district shall state

on their face that they are not obligations of the state of Missouri or any agency or political subdivision thereof other than the district.

3. Any district may by resolution impose a district sales tax of up to one half of one percent on all retail sales made in such district that are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon voter approval, and receiving the necessary certifications from the governing body of the municipality in which the district is located, or from the circuit court if the district was formed by the circuit court, the board of directors shall have the power to impose a sales tax at its first meeting, or any meeting thereafter. Voter approval of the question of the imposing sales tax shall be in accordance with section 67.2520 of this section. The sales tax shall become effective in those subdistricts that approve the sales tax on the first day of the first calendar quarter immediately following the passage of a resolution by the board of directors imposing the sales tax.

4. In each district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the district pursuant to this section to the retailer's sale price, and when so added, such tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

5. In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285, RSMo.

6. All revenue received by a district from the sales tax authorized by this section shall be deposited in a special trust fund and shall be used solely for the purposes of the district. Any funds in such special trust fund which are not needed for the district's current expenditures may be invested by the district board of directors in accordance with applicable laws relating to the investment of other district funds.

7. The sales tax may be imposed at a rate of up to one half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo. Any district sales tax imposed pursuant to this section shall be imposed at a rate that shall be uniform throughout the subdistricts approving the sales tax.

8. The resolution imposing the sales tax pursuant to this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax and the tax shall be reported and returned to and collected by the district.

9. (1) On and after the effective date of any sales tax imposed pursuant to this section, the district shall perform all functions incident to the administration, collection, enforcement, and operation of the tax. The sales tax imposed pursuant to this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the district.

(2) All such sales taxes collected by the district shall be deposited by the district in a special fund to be expended for the purposes authorized in this section. The district shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to the inspection of officers of each district and the general public.

(3) The district may contract with the municipality that the district is within for the municipality to collect any revenue received by the district and, after deducting the cost of such collection, but not to exceed one percent of the total amount collected, deposit such revenue in a special trust account. Such revenue and interest may be applied by the municipality to expenses, costs, or debt service of the district at the direction of the district as set forth in a contract between the municipality and the district.

10. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.

(2) All exemptions granted to agencies of government, organizations, persons, and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section.

(3) The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

(4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made applicable to any taxes collected pursuant to the provisions of this section.

(5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for violation of those sections are hereby made applicable to violations of this section.

(6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all retail sales shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

(7) Subsequent to the initial approval by the voters and implementation of a sales tax in the district, the rate of the sales tax may be increased, but not to exceed a rate of one-half of one percent on retail sales as provided in this subsection. The election shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the increase of the sales tax before the voters of the district by resolution, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district, shall conduct the subsequent election. In subsequent elections, the election judges shall certify the election results to the district board of directors. The ballot of submission shall be in substantially the following form:

"Shall (name of district) increase the (insert amount) percent district sales tax now in effect to (insert amount) in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the increase, the increase shall become effective December thirty-first of the calendar year in which such increase was approved.

11. (1) There shall not be any election as provided for in this section while the district has any financing or other obligations outstanding.

(2) The board, when presented with a petition signed by at least one-third of the registered voters in a district that voted in the last gubernatorial election, or signed by at least two-thirds of property owners of the district, calling for an election to dissolve and repeal the tax shall submit the question to the voters using the same procedure by which the imposing tax was voted. The ballot of submission shall be in substantially the following form:

"Shall (name of district) dissolve and repeal the (insert amount) percent district sales tax now in effect in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Such subsequent elections for the repeal of the sales tax shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the repeal of the sales tax before the voters of the district, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district, shall conduct the subsequent election. In subsequent elections the election judges shall certify the election results to the district board of directors.

(3) If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the district's indebtedness, whichever occurs later.

12. (1) At such time as the board of directors of the district determines that further operation of the district is not in the best interests of the inhabitants of the district, and that the district should dissolve, the board shall submit for a vote in an election held throughout the district the question of whether the district should be abolished. The question shall be submitted in substantially the following form:

"Shall the theater, cultural arts, and entertainment district be abolished?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(2) The district board shall not propose the question to abolish the district while there are outstanding claims or causes of action pending against the district, while the district liabilities exceed its assets, while indebtedness of the district is outstanding, or while the district is insolvent, in receivership or under the jurisdiction of the bankruptcy court. Prior to submitting the question to abolish the district to a vote of the entire district, the state auditor shall audit the district to determine the financial status of the district, and whether the district may be abolished pursuant to law. The vote on the abolition of the district shall be conducted by the municipal clerk of the city, town, or village in which the district is located. The procedure shall be the same as in section 67.2520, except that the question shall be determined by the qualified voters of the entire district. No individual subdistrict may be abolished, except at such time as the district is abolished.

(3) While the district still exists, it shall continue to accrue all revenues to which it is entitled at law.

(4) Upon receipt by the board of directors of the district of the certification by the city, town, or village in which the district is located that the majority of those voting within

the entire district have voted to abolish the district, and if the state auditor has determined that the district's financial condition is such that it may be abolished pursuant to law, then the board of directors of the district shall:

(a) Sell any remaining district real or personal property it wishes, and then transfer the proceeds and any other real or personal property owned by the district to the city, town, or village in which the district is located, including revenues due and owing the district, for its further use and disposition;

(b) Terminate the employment of any remaining district employees, and otherwise conclude its affairs;

(c) At a public meeting of the district, declare by a resolution of the board of directors passed by a majority vote that the district has been abolished effective that date;

(d) Cause copies of that resolution under seal to be filed with the secretary of state and the city, town, or village in which the district is located. Upon the completion of the final act specified in this subsection, the legal existence of the district shall cease.

(5) The legal existence of the district shall not cease for a period of two years after voter approval of the abolition.

Approved July 2, 2004

SB 740 [HCS SS SCS SBs 740, 886 & 1178]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to agriculture programs.

AN ACT to repeal sections 148.330, 263.534, 267.470, 267.472, 267.475, 267.480, 267.485, 267.490, 267.495, 267.500, 267.505, 267.510, 267.515, 267.520, 267.525, 267.531, 267.535, 267.540, 267.545, 267.550, 267.551, 267.552, 267.553, 267.554, 267.555, 267.556, 348.406, 348.412, 348.430, 348.432, and 537.115, RSMo, and to enact in lieu thereof eleven new sections relating to agriculture programs.

SECTION

A. Enacting clause.

148.330. Returns, assessment of tax, procedure — notice to company — taxes, how paid — suspension of delinquents, apportionment of money — county, defined.

261.115. Financial investment records, sales projections, and business plan information deemed a closed record, when.

261.256. Growers' districts authorized, procedure.

261.259. Board of commissioners.

263.534. Failure to pay assessment, penalties and interest — lien also authorized on cotton crop subject to assessment, priority of lien.

265.475. Rules, Federal Meat Inspection Act.

348.406. Certificates of guaranty — fee — limitations.

348.412. Use of loan proceeds — eligibility — rules.

348.430. Agricultural product utilization contributor tax credit — definitions — requirements — limitations.

348.432. New generation cooperative incentive tax credit — definitions — requirements — limitations.

B. Enacting clause.

537.115. Food donation or distribution, limited liability, when.

267.470. Definitions.

267.472. Commercial feeders — permit, issuance, revocation, regulation of — discontinuance of licensing, when.

267.475. Cooperation with federal government — rules and regulations — powers of department.

267.480. Department to vaccinate and test animals, when.

267.485. Official calfhood vaccination, certificate — identification of vaccinated animals.

267.490. Indemnity for loss, when, how calculated — refusal of payment, when.

- 267.495. Agglutination tests, certificate of — branding, when.
- 267.500. Laboratory for agglutination tests, permit required — records and reports — revocation of permit.
- 267.505. Negative test required, when, exception — imported cattle, test requirements — intrastate shipments, requirements for.
- 267.510. Certified brucellosis free herd certificates, issuance, qualifications — extension for year.
- 267.515. Modified certified brucellosis free area — petitions — certification extended when — regulations in area.
- 267.520. Quarantined cattle subject to rules and regulations — permit required for sale or transportation.
- 267.525. Reactor animal kept for breeding, when.
- 267.531. Seizure of cattle — notice — redemption — hearing, judicial review — sale, disposition of proceeds.
- 267.535. Violations may be enjoined.
- 267.540. False certificate, misdemeanor.
- 267.545. Violation, misdemeanor.
- 267.550. Title of law.
- 267.551. Definitions.
- 267.552. Vaccine, who may administer — rules and regulations — health certificates to be issued — exceptions to calfhood vaccinations.
- 267.553. Female cattle and buffalo to be vaccinated, spayed, branded — exceptions — animals moved from this state in interstate commerce, exempt.
- 267.554. Other vaccines may be used, when.
- 267.555. Inheritance of female livestock — special provisions for sale.
- 267.556. Eligibility for indemnity payments.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 148.330, 263.534, 267.470, 267.472, 267.475, 267.480, 267.485, 267.490, 267.495, 267.500, 267.505, 267.510, 267.515, 267.520, 267.525, 267.531, 267.535, 267.540, 267.545, 267.550, 267.551, 267.552, 267.553, 267.554, 267.555, 267.556, 348.406, 348.412, 348.430, and 348.432, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 148.330, 261.115, 261.256, 261.259, 263.534, 265.475, 348.406, 348.412, 348.430, and 348.432, to read as follows:

148.330. RETURNS, ASSESSMENT OF TAX, PROCEDURE — NOTICE TO COMPANY — TAXES, HOW PAID — SUSPENSION OF DELINQUENTS, APPORTIONMENT OF MONEY — COUNTY, DEFINED. — 1. Every such company shall, on or before the first day of March in each year, make a return, verified by the affidavit of its president and secretary, or other authorized officers, to the director of the department of insurance stating the amount of all premiums received on account of policies issued in this state by the company, whether in cash or in notes, during the year ending on the thirty-first day of December, next preceding. Upon receipt of such returns the director of the department of insurance shall verify the same and certify the amount of tax due from the various companies on the basis and at the rates provided in section 148.320, and shall certify the same to the director of revenue together with the amount of the quarterly installments to be made as provided in subsection 2 of this section, on or before the thirtieth day of April of each year.

2. Beginning January 1, 1983, the amount of the tax due for that calendar year and each succeeding calendar year thereafter shall be paid in four approximately equal estimated quarterly installments, and a fifth reconciling installment. The first four installments shall be based upon the tax for the immediately preceding taxable year ending on the thirty-first day of December, next preceding. The quarterly installments shall be made on the first day of March, the first day of June, the first day of September and the first day of December. Immediately after receiving certification from the director of the department of insurance of the amount of tax due from the various companies the director of revenue shall notify and assess each company the amount of taxes on its premiums for the calendar year ending on the thirty-first day of December, next preceding. The director of revenue shall also notify and assess each company the amount of the estimated quarterly installments to be made for the calendar year. If the amount of the actual tax due for any year exceeds the total of the installments made for such year, the balance of the tax due shall be paid on the first day of June of the year following, together with the regular quarterly payment due at that time. If the total amount of the tax actually due is less than the total amount

of the installments actually paid, the amount by which the amount paid exceeds the amount due shall be credited against the tax for the following year and deducted from the quarterly installment otherwise due on the first day of June. If the March first quarterly installment made by a company is less than the amount assessed by the director of revenue, the difference will be due on June first, but no interest will accrue to the state on the difference unless the amount paid by the company is less than eighty percent of one-fourth of the total amount of tax assessed by the director of revenue for the immediately preceding taxable year. The state treasurer, upon receiving the moneys paid as a tax upon such premiums to the director of revenue, shall place the moneys to the credit of a fund to be known as "The County Stock Insurance Fund", which is hereby created and established. **The county stock insurance fund shall be included in the calculation of total state revenue pursuant to article X, section 18, of the Missouri Constitution.**

3. If the estimated quarterly tax installments are not so paid, the director of revenue shall certify such fact to the director of the division of insurance who shall thereafter suspend such delinquent company or companies from the further transaction of business in this state until such taxes shall be paid and such companies shall be subject to the provisions of sections 148.410 to 148.461.

4. On or before the first day of September of each year the commissioner of administration shall apportion all moneys in the county stock insurance fund to the general revenue fund of the state, to the county treasurer and to the treasurer of the school district in which the principal office of the company paying the same is located. All premium tax credits described in sections 135.500 to 135.529, RSMo, **and sections 348.430 and 348.432, RSMo**, shall only reduce the amounts apportioned to the general revenue fund of the state and shall not reduce any moneys apportioned **to any county treasurer or** to the treasurer of the school district in which the principal office of the company paying the same is located. Apportionments shall be made in the same ratio which the rates of levy for the same year for state purposes, for county purposes, and for all school district purposes, bear to each other; provided that any proceeds from such tax for prior years remaining on hand in the hands of the county collector or county treasurer undistributed on the effective date of sections 148.310 to 148.460 and any proceeds of such tax for prior years collected thereafter shall be distributed and paid in accordance with the provisions of such sections. Whenever the word "county" occurs herein it shall be construed to include the city of St. Louis.

261.115. FINANCIAL INVESTMENT RECORDS, SALES PROJECTIONS, AND BUSINESS PLAN INFORMATION DEEMED A CLOSED RECORD, WHEN. — Records and documents submitted to the Missouri department of agriculture or Missouri agriculture and small business development authority relating to financial investments in a business, or sales projections or other business plan information that may endanger the competitiveness of a business, except for the amount and recipient of any loan or grant from a program administered by the authority, shall be deemed a "closed record" as such term is defined in section 610.010, RSMo.

261.256. GROWERS' DISTRICTS AUTHORIZED, PROCEDURE. — 1. It is hereby established that growers' districts may be voluntarily created by Missouri producers raising agricultural crops for food, feed, industrial, and pharmaceutical uses, to be known by the name established by the creators of the growers' district. Nothing in this section or section 261.259 shall force any private property owner to participate in a growers' district.

2. Upon organization, each district shall file with the clerk of the circuit court in the county in which the majority of the district is located and shall adopt bylaws addressing governance of the district, expansion of the district to include new members, and the exercise of any other powers necessary to effectuate the purposes of this section and section 261.259.

261.259. BOARD OF COMMISSIONERS. — 1. The members of a district shall elect a board of commissioners of such district.

2. All commissioners of a district shall be owners or operators of land used for the cultivation of commercial crops within the physical boundaries of the district.

263.534. FAILURE TO PAY ASSESSMENT, PENALTIES AND INTEREST — LIEN ALSO AUTHORIZED ON COTTON CROP SUBJECT TO ASSESSMENT, PRIORITY OF LIEN. — 1. A cotton grower who fails to pay, when due and upon reasonable notice, any assessment levied under sections 263.500 to 263.537, shall be subject to a per-acre penalty as established in the department's regulations, in addition to the assessment.

2. A cotton grower who fails to pay all assessments, including penalties, within thirty days of notice of penalty, shall destroy any cotton plants growing on his acreage which is subject to the assessment. Any such cotton plants which are not destroyed shall be deemed to be a public nuisance, and such public nuisance may be abated in the same manner as any public nuisance.

3. The department may petition the circuit court of the judicial circuit in which the public nuisance is located to have the nuisance condemned and destroyed with all costs of destroying to be levied against the grower. Injunctive relief shall be available to the department notwithstanding the existence of any other legal remedy, and the department shall not be required to file a bond.

4. In addition to any other remedies for the collection of assessments, including penalties and interest, the department [may secure a lien upon cotton subject to such assessments] shall have an assessment lien that attaches and is perfected sixty days after the date the department mails notice of the assessment and shall cover any cotton crop grown by the grower, including future crops, and the proceeds of the cotton sale, until the assessment, including penalties and interest, is paid in full. The department shall notify the farm service agency and first handlers of cotton, including buyers, lienholders on the cotton, and ginner, of liens attached within thirty days of the date of perfection. This assessment lien is not an agricultural lien for purposes of, and is not subject to the provisions of Article 9 of the Uniform Commercial Code-Secured Transactions, as embodied in sections 400.9-101 to 400.9-508, RSMo. Such lien shall attach in preference to any prior lien, encumbrance or mortgage upon such cotton.

265.475. — The director shall promulgate regulations consistent with and equal to the Federal Meat Inspection Act, the Federal Poultry Products Inspection Act, and all related federal regulations and shall adopt such rules and regulations as necessary to implement the inspection programs authorized under sections 265.300 to 265.470.

348.406. CERTIFICATES OF GUARANTY — FEE — LIMITATIONS. — 1. The authority, upon application, may issue certificates of guaranty covering a first loss guarantee up to but not more than [twenty-five] fifty percent of the loan on a declining principal basis for loans to eligible borrowers, executing a note or other evidence of a loan made for the purpose of an agricultural business development loan, but not to exceed the amount of two hundred fifty thousand dollars for any eligible borrower and to pay from the fund to an eligible lender up to [twenty-five] fifty percent of the amount on a declining principal basis of any loss on any guaranteed loan made pursuant to the provisions of sections 348.400 to 348.415, in the event of default on the loan. Upon payment on the guarantee, the authority shall be subrogated to all the rights of the eligible lender.

2. The authority shall charge for each guaranteed loan a one-time participation fee of one percent which shall be collected by the eligible lender at the time of closing and paid to the authority. In addition, the authority may charge a special loan guarantee fee of up to one percent per annum of the outstanding principal which shall be collected from the eligible borrower by the eligible lender and paid to the authority.

3. All moneys paid to satisfy a defaulted guaranteed loan shall only be paid out of the fund.

4. The total outstanding guaranteed loans shall at no time exceed an amount which, according to sound actuarial judgment, would allow immediate redemption of [forty] **twenty** percent of the outstanding loans guaranteed by the fund at any one time.

348.412. USE OF LOAN PROCEEDS — ELIGIBILITY — RULES. — 1. Eligible borrowers:

(1) Shall use the proceeds of the agricultural business development loan to acquire agricultural property; and

(2) May not finance more than ninety percent of the anticipated cost of the project through the agricultural business development loan.

2. The project shall have opportunities to succeed in the development, expansion and operation of businesses involved in adding value to, marketing, exporting, processing, or manufacturing agricultural products that will benefit the state economically and socially through direct or indirect job creation or job retention.

3. The authority shall promulgate rules establishing eligibility pursuant to the provisions of sections 348.400 to 348.415, taking into consideration:

(1) The eligible borrower's ability to repay the agricultural business development loan;

(2) The general economic conditions of the area in which the agricultural property will be located;

(3) The prospect of success of the particular project for which the loan is sought; and

(4) Such other factors as the authority may establish.

4. The authority may promulgate rules to provide for:

(1) The requirement or nonrequirement of security or endorsement and the nature thereof;

(2) The manner and time or repayment of the principal and interest;

(3) The maximum rate of interest;

(4) The right of the eligible borrower to accelerate payments without penalty;

(5) The amount of the guaranty charge;

(6) The effective period of the guaranty;

(7) The percent of the agricultural business development loan, not to exceed [twenty-five] **fifty** percent, covered by the guaranty;

(8) The assignability of agricultural business development loans by the eligible lender;

(9) Procedures in the event of default on an agricultural business development loan;

(10) The due diligence effort on the part of eligible lenders for collection of guaranteed loans;

(11) Collection assistance to be provided to eligible lenders; and

(12) The extension of the guaranty in consideration of duty in the armed forces, unemployment, natural disasters, or other hardships.

348.430. AGRICULTURAL PRODUCT UTILIZATION CONTRIBUTOR TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "Agricultural Product Utilization Contributor Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Contributor", an individual, partnership, corporation, trust, limited liability company, entity or person that contributes cash funds to the authority;

(3) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(4) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility;

(5) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(6) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source.

3. For **all tax [year] years beginning on or after January 1, 1999**, a contributor who contributes funds to the authority may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 148, RSMo, chapter 147, RSMo, in an amount of up to one hundred percent of such contribution. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to this subsection. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year.** The awarding of such credit shall be at the approval of the authority, based on the least amount of credits necessary to provide incentive for the contributions. A contributor that receives tax credits for a contribution to the authority shall receive no other consideration or compensation for such contribution, other than a federal tax deduction, if applicable, and goodwill. A contributor that receives tax credits for a contribution provided in this section may not be a member, owner, investor or lender of an eligible new generation cooperative or eligible new generation processing entity that receives financial assistance from the authority either at the time the contribution is made or for a period of two years thereafter.

4. A contributor shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the contributor meets all criteria prescribed by this section and the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially] **may** be claimed in the taxable year in which the contributor contributes funds to the authority. [Any amount of credit that exceeds the tax due for a contributor's taxable year] **For all fiscal years beginning on or after July 1, 2004, tax credits allowed pursuant to this section may be carried back to any of the contributor's three prior tax years and** may be carried forward to any of the contributor's five subsequent taxable years. Tax credits issued pursuant to this section may be assigned, transferred or sold **and the new owner of the tax credit shall have the same rights in the credit as the contributor.** Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

5. The funds derived from contributions in this section shall be used for financial assistance or technical assistance for the purposes provided in section 348.407, to rural agricultural business concepts as approved by the authority. The authority may provide or facilitate loans, equity investments, or guaranteed loans for rural agricultural business concepts, but limited to two million dollars per project or the net state economic impact, whichever is less. Loans, equity investments or guaranteed loans may only be provided to feasible projects, and for an amount that is the least amount necessary to cause the project to occur, as determined by the authority. The authority may structure the loans, equity investments or guaranteed loans in a way that

facilitates the project, but also provides for a compensatory return on investment or loan payment to the authority, based on the risk of the project.

6. In any given year, at least ten percent of the funds granted to rural agricultural business concepts shall be awarded to grant requests of twenty-five thousand dollars or less. No single rural agricultural business concept shall receive more than two hundred thousand dollars in grant awards from the authority. Agricultural businesses owned by minority members or women shall be given consideration in the allocation of funds.

348.432. NEW GENERATION COOPERATIVE INCENTIVE TAX CREDIT — DEFINITIONS — REQUIREMENTS — LIMITATIONS. — 1. The tax credit created in this section shall be known as the "New Generation Cooperative Incentive Tax Credit".

2. As used in this section, the following terms mean:

(1) "Authority", the agriculture and small business development authority as provided in this chapter;

(2) "Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;

(3) "Eligible new generation cooperative", a nonprofit cooperative association formed pursuant to chapter 274, RSMo, or incorporated pursuant to chapter 357, RSMo, for the purpose of operating a development facility or a renewable fuel production facility and approved by the authority;

(4) "Eligible new generation processing entity", a partnership, corporation, cooperative, or limited liability company organized or incorporated pursuant to the laws of this state consisting of not less than twelve members, approved by the authority, for the purpose of owning or operating within this state a development facility or a renewable fuel production facility in which producer members:

(a) Hold a majority of the governance or voting rights of the entity and any governing committee;

(b) Control the hiring and firing of management; and

(c) Deliver agricultural commodities or products to the entity for processing, unless processing is required by multiple entities;

(5) "Employee-qualified capital project", an eligible new generation cooperative with capital costs greater than fifteen million dollars which will employ at least [one hundred] **sixty** employees;

(6) "Large capital project", an eligible new generation cooperative with capital costs greater than one million dollars;

(7) "Producer member", a person, partnership, corporation, trust or limited liability company whose main purpose is agricultural production that invests cash funds to an eligible new generation cooperative or eligible new generation processing entity;

(8) "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

(9) "Small capital project", an eligible new generation cooperative with capital costs of no more than one million dollars.

3. Beginning tax year 1999, and ending December 31, 2002, any producer member who invests cash funds in an eligible new generation cooperative or eligible new generation processing entity may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, or chapter 148, RSMo, chapter 147, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars.

4. For all tax years beginning on or after January 1, 2003, any producer member who invests cash funds in an eligible new generation cooperative **or eligible new generation**

processing entity may receive a credit against the tax **or estimated quarterly tax** otherwise due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, chapter 147, RSMo, or chapter 148, RSMo, in an amount equal to the lesser of fifty percent of such producer member's investment or fifteen thousand dollars. **Tax credits claimed in a taxable year may be done so on a quarterly basis and applied to the estimated quarterly tax pursuant to subsection 3 of this section. If a quarterly tax credit claim or series of claims contributes to causing an overpayment of taxes for a taxable year, such overpayment shall not be refunded but shall be applied to the next taxable year.**

5. A producer member shall submit to the authority an application for the tax credit authorized by this section on a form provided by the authority. If the producer member meets all criteria prescribed by this section and is approved by the authority, the authority shall issue a tax credit certificate in the appropriate amount. Tax credits issued pursuant to this section [shall initially be claimed in the taxable year in which the producer member contributes capital to an eligible new generation cooperative or eligible new generation processing entity. Any amount of credit that exceeds the tax due for a producer member's taxable year] may be carried back to any of the producer member's three prior taxable years and carried forward to any of the producer member's five subsequent taxable years **regardless of the type of tax liability to which such credits are applied as authorized pursuant to subsection 3 of this section.** Tax credits issued pursuant to this section may be assigned, transferred, sold or otherwise conveyed and the new owner of the tax credit shall have the same rights in the credit as the producer member. Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a notarized endorsement shall be filed with the authority specifying the name and address of the new owner of the tax credit or the value of the credit.

6. Ten percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to small capital projects. If any portion of the ten percent of tax credits offered to small capital costs projects is unused in any calendar year, then the unused portion of tax credits may be offered to employee-qualified capital projects and large capital projects. If the authority receives more applications for tax credits for small capital projects than tax credits are authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for small capital projects.

7. Ninety percent of the tax credits authorized pursuant to this section initially shall be offered in any fiscal year to employee-qualified capital projects and large capital projects. If any portion of the ninety percent of tax credits offered to employee-qualified capital projects and large capital costs projects is unused in any fiscal year, then the unused portion of tax credits may be offered to small capital projects. The maximum tax credit allowed per employee-qualified capital project is three million dollars and the maximum tax credit allowed per large capital project is one million five hundred thousand dollars. If the authority approves the maximum tax credit allowed for any employee-qualified capital project or any large capital project, then the authority, by rule, shall determine the method of distribution of such maximum tax credit. In addition, if the authority receives more tax credit applications for employee-qualified capital projects and large capital projects than the amount of tax credits authorized therefor, then the authority, by rule, shall determine the method of distribution of tax credits authorized for employee-qualified capital projects and large capital projects.

SECTION B. ENACTING CLAUSE. — Section 537.115, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.115, to read as follows:

537.115. FOOD DONATION OR DISTRIBUTION, LIMITED LIABILITY, WHEN. — 1. As used in this section, the following terms mean:

(1) "Canned food", any food commercially processed and prepared for human consumption;

(2) "Perishable food", any food which may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated, or frozen.

2. All other provisions of law notwithstanding, a good faith donor of canned or perishable food, which complies with chapter 196, RSMo, at the time it was donated and which is fit for human consumption at the time it is donated, to a bona fide charitable or not-for-profit organization for free distribution, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct result of the negligence, recklessness or intentional misconduct of such donor.

3. All other provisions of law notwithstanding, a bona fide charitable or not-for-profit organization which in good faith receives and distributes food, which complies with chapter 196, RSMo, at the time it was donated and which is fit for human consumption at the time it is distributed, without charge, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct result of the negligence, recklessness, or intentional misconduct of such organization.

4. Notwithstanding any other provision of law to the contrary, a good faith donor or a charitable or not-for-profit organization, who in good faith receives or distributes frozen and packaged venison without charge, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food, except as provided in this subsection. The venison must:

(1) Come from a whitetail deer harvested in accordance with the rules and regulations of the department of conservation;

(2) Be field dressed and handled in a sanitary manner and the carcass of which remains in sound condition;

(3) Be processed in a licensed facility that is subject to the United States Department of Agriculture's mandated inspections during domesticated animal operations **or is approved by the Missouri department of agriculture meat inspection program**. Except that, the provisions of this subsection shall not apply if the injury or death is a direct result of the negligence, recklessness or intentional misconduct of such donor or the deer was harvested during a season that the deer in Missouri were found to have diseases communicable to humans. Venison handled and processed in accordance with the provisions of this section and protected by all reasonable means from foreign or injurious contamination is exempt from the provisions of chapter 196, RSMo.

5. The provisions of this section shall govern all good faith donations of canned or perishable food which is not readily marketable due to appearance, freshness, grade, surplus or other conditions, but nothing in this section shall restrict the authority of any appropriate agency to regulate or ban the use of such food for human consumption.

[267.470. DEFINITIONS. — Unless otherwise indicated by the context, when used in sections 267.470 to 267.550, the following terms have the following meanings:

(1) "Accredited approved veterinarian" means a veterinarian who has been accredited by the United States Department of Agriculture and approved by the state department of agriculture and who is duly licensed under the laws of Missouri to engage in the practice of veterinary medicine, or a veterinarian domiciled and practicing veterinary medicine in a state other than Missouri, duly licensed under the laws of the state in which he resides, accredited by the United States Department of Agriculture, and approved by the chief livestock sanitary official of that state;

(2) "Animal" means an animal of the bovine species;

(3) "Approved vaccine" or "vaccine" means vaccine containing brucella microorganisms produced under license of the United States Department of Agriculture and approved by the department for the immunization of animals against brucellosis;

(4) "Bovine brucellosis" or "brucellosis" means the disease wherein an animal of the bovine species is infected with brucella microorganisms, irrespective of the occurrence or absence of clinical symptoms of the disease;

(5) "Cattle" means animals of the bovine species;

(6) "Certified brucellosis free herd" means a herd of cattle which has met the requirements and conditions set forth in sections 267.470 to 267.550 for such status, or a herd of cattle in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which said cattle are domiciled and as recommended by the United States Department of Agriculture for such status;

(7) "Commercial feeder" means any person, association, partnership or corporation maintaining premises wherein cattle of various classes are held for various feeding periods and after such period are moved to a recognized and approved slaughtering establishment or consigned to a public stockyards market under federal inspection service or a licensed market approved for the handling of such cattle and are sold for slaughter purposes only;

(8) "Department" or "department of agriculture" means the department of agriculture of the state of Missouri, and when by this law the said department of agriculture is charged to perform a duty it shall be understood to authorize the performance of such duty by the director of the department of agriculture of the state of Missouri or his duly authorized deputies, acting under the supervision of the director of the department of agriculture;

(9) "Infected animal" or "reactor" means an animal which has shown a positive reaction to the agglutination test or any other recognized test for the detection of bovine brucellosis approved by the department or if "brucella organisms" are found in the body discharges or secretions of such animal or when a previous abortion history of the animal justifies designating such animal as a reactor, with or without a positive reaction to the test;

(10) "Isolated" or "isolation" means the condition in which cattle are quarantined to a certain designated premise and maintained separately and apart from any other cattle on the premise or from cattle on adjacent premises;

(11) "Livestock sale or market" means a sale or market as defined in and licensed under chapter 277, RSMo;

(12) "Milk ring test" means a test made by using the standardized suspension of milk ring test antigen of killed brucella microorganisms in combination with proper amounts of whole milk or cream produced by a particular herd of cattle;

(13) "Modified certified brucellosis free area" means an area which has met the requirements and conditions set forth in sections 267.470 to 267.550 for such status, or an area in another state which has met those minimum requirements and conditions under the supervision of the livestock sanitary authority of the state in which such area is located and as recommended by the United States Department of Agriculture for such status;

(14) "Plan A" means test-and-slaughter, with or without calfhood vaccination, under provisions of the law;

(15) "Plan B" means testing and calfhood vaccination, with temporary retention of reactors for not longer than three years and until they can be disposed of for slaughter, under provisions of the law;

(16) "Plan C" means calfhood vaccination without test of any part of the herd and the plan is confined to those herds in which movement of animals is restricted to special permits issued by the department;

(17) "Plan D" means adult vaccination to be practiced in cases of emergency, with the approval of the department;

(18) "Public stockyards" means any public stockyards located within the state of Missouri and subject to regulations under the provisions of the Packers and Stockyards Act enacted by Congress of the United States;

(19) "Quarantine" means the condition in which cattle or other species of animals are restricted in movement and to a particular premise under such terms and conditions as may be designated in the order by the department;

(20) "Test for brucellosis" means a test recognized by the United States Department of Agriculture in the diagnosis of brucellosis.]

[267.472. COMMERCIAL FEEDERS — PERMIT, ISSUANCE, REVOCATION, REGULATION OF — DISCONTINUANCE OF LICENSING, WHEN. — 1. Premises maintained and operated by a commercial feeder for feeding purposes shall, when so used, be under a continuous state of quarantine and breeding animals shall not be maintained on such premises.

2. Surface drainage and any contact with cattle on adjacent premises shall be controlled in a manner designated by the state veterinarian or his representative when deemed necessary for the protection of breeding animals on the adjacent premises.

3. Commercial feeders shall make application for a permit from the department and if issued by the department may then purchase untested nonbred female cattle under the permit from any licensed market, terminal stockyards market or producer within the state for feeding purposes.

4. The department may suspend or revoke the permit for any violation of this chapter or of the rules and regulations of the department.

5. Commercial feeders shall retain all incoming permits, waybills, bills of lading, conductors' manifests, health certificates, and copies of all outgoing permits, certificates, waybills and bills of lading. Permission to enter the premises of a commercial feeder shall be granted to a duly authorized agent of the department or of the United States Department of Agriculture. The books and records of all commercial feeders shall be exhibited to such authorized persons upon demand; provided further, that all incoming and outgoing permits and bills of lading shall be surrendered to each authorized person upon demand. Complete books relating to a commercial feeding operation shall be kept in a current manner.

6. The state veterinarian may elect to discontinue the practice of licensing quarantined commercial feedlots if their existence conflicts with other disease eradication requirements.]

[267.475. COOPERATION WITH FEDERAL GOVERNMENT — RULES AND REGULATIONS — POWERS OF DEPARTMENT. — 1. The department is authorized and directed to cooperate with the United States Department of Agriculture and other agencies and departments of the state of Missouri in the suppression, eradication and control of bovine brucellosis in this state.

2. The department is authorized and empowered to make and adopt rules and regulations for the administration and enforcement of sections 267.470 to 267.550, and may waive the signing of individual agreements by cattle owners on areawide or countywide control and eradication programs.

3. The department in performing the duties and exercising the powers vested in it under sections 267.470 to 267.550 is empowered to enter, during usual working hours, any premises, barns, stables, sheds, vehicles, or other places where cattle are kept, or plants where milk or cream is received or collected, for the purpose of administering and enforcing the provisions of sections 267.470 to 267.550.]

[267.480. DEPARTMENT TO VACCINATE AND TEST ANIMALS, WHEN. — The department is hereby authorized, upon request to supply brucella vaccine, and to employ the services of veterinarians, in cooperation with the United States Department of Agriculture, to administer such vaccine to, and conduct blood tests on, animals, owned by any person or persons in the state of Missouri, who having first signified, in writing, their intention to cooperate with the department and the United States Department of Agriculture, by signing an agreement to qualify his herd as a brucellosis certified free herd or to participate in the program for the control and eradication of brucellosis, under plan A, B, C, or D, as approved by the state and federal

departments of agriculture. Such vaccine and veterinary service and testing shall be furnished without expense to the owner, as long as funds are available for that purpose.]

[267.485. OFFICIAL CALFHOOD VACCINATION, CERTIFICATE — IDENTIFICATION OF VACCINATED ANIMALS. — Official calfhood vaccination for brucellosis shall mean that such animals are vaccinated with an approved vaccine when such animal is of an age as may be fixed by rules and regulations of the department. Such vaccination shall be administered by an accredited veterinarian in good standing, approved by the department, who shall execute and give the owner a certificate in a form approved by the department, certifying an identification of the animal or animals, their age, the serial number of the vaccine, the expiration of the effective date of the vaccine, the dosage used, and if the animal or animals were tested for brucellosis prior to the vaccination, the result of such test. Grade animals vaccinated in compliance with this section shall be permanently identified by a tattoo symbol and a vaccination tag, both as approved by the department, and such tags may be provided at cost by the department. Registered animals shall be identified by the registration tattoo, or the registration name and number of such animal.]

[267.490. INDEMNITY FOR LOSS, WHEN, HOW CALCULATED — REFUSAL OF PAYMENT, WHEN. — 1. The department is hereby authorized to pay, within the limit of its appropriations, an indemnity in the manner and in the amounts herein set forth to the owner of any cattle carrying on an approved brucellosis control program in his herd, in order to reimburse such owner for a part of the loss suffered by such owner in disposing of the cattle exposed to, infected with, or reacting to a test for brucellosis.

2. The value of any cattle on which an indemnity is sought by the owner thereof shall not exceed an amount recognized by the state veterinarian and the owner as just compensation in relation to current market conditions, breeding value and other criteria of valuation for the animal destroyed. Each animal destroyed shall be identified separately on the appraisal form. The appraisal form shall be made out in triplicate, and one copy sent to the department, one copy retained by the duly authorized agent, and one copy retained by the owner.

3. Any such cattle on which an indemnity is sought shall be kept in isolation and within fifteen days of identification or branding shall be sold for slaughter and a report of the net proceeds (being the total amount received less expense of transportation, commissions and other expense of such sale) derived from the sale of such infected or reactor cattle shall be delivered by the owner to the department. The department shall determine the owner's loss by deducting the amount of the net proceeds so derived by the sale of the cattle for slaughter from the appraised value.

4. The indemnity to be paid by the department shall be an amount set at the discretion of the state veterinarian and shall not exceed breeding value of the animal. The department shall certify to the state commissioner of administration the amount to be paid by the department, and such amount shall constitute a legal claim against the state within the limits of available appropriations, and the commissioner of administration shall approve the same and cause the same to be paid by issuing his warrant on the state treasurer therefor in payment to such owner.

5. Indemnity for animals slaughtered as reactors or as infected cattle shall be paid to the owner thereof, only if the owner cooperates with the department, if requested by the state veterinarian or his agent, in carrying out recommended practices in eradicating the disease from his animals.

6. No indemnity shall be paid if, in the judgment of the state veterinarian, the animal does not qualify for indemnity or the owner is ineligible for payments.]

[267.495. AGGLUTINATION TESTS, CERTIFICATE OF — BRANDING, WHEN. — Every person conducting agglutination tests shall execute, in triplicate, a certificate on each test made, in the form to be prescribed by the department and one copy of said certificate of test shall be

mailed or delivered to the department, and one copy shall be delivered to the owner of the animal tested, and one copy shall be retained by the person conducting the test and executing the certificate. If the animal tested shows a positive reaction to the agglutination test, the person conducting the test shall brand and tag such animal as required by rules and regulations of the department.]

[267.500. LABORATORY FOR AGGLUTINATION TESTS, PERMIT REQUIRED — RECORDS AND REPORTS — REVOCATION OF PERMIT. — 1. No person shall operate or conduct a laboratory in this state for the purpose of making agglutination tests, nor shall any person make such tests, without first securing from the department a permit to do so. The application for such permit shall be on a form prescribed by the department and shall set forth the name of the applicant and, if a corporation, the names of its principal officers, the location where such laboratory will be conducted, such tests made and the records thereof kept, a brief description of the training and experience of the applicant or the person in charge of making such tests, and such other information as the department may require to enable the department to determine the responsibility, qualifications and ability of the applicant to make agglutination tests.

2. If the department finds that the applicant is responsible and appears to be qualified to make such tests, it shall issue a permit to the applicant. Such permit shall be issued for the period ending on the following June thirtieth, and shall be renewable from year to year on like application.

3. Each person holding a permit to conduct such a laboratory and make such tests shall keep a record of all tests so made, including the name and address of the person for whom the tests were made, and shall report to the department the results of all tests made for persons or upon cattle located in this state. Such reports shall be made upon forms to be provided by the department and at such times as are required by sections 267.470 to 267.550 or by rules and regulations of the department.

4. If the department finds that any applicant for permit is not responsible or is not qualified to make tests, it may refuse to issue a permit or to renew a permit. If the department finds that any person holding a permit is not correctly reporting the results of the tests made by such persons or if such persons shall fail to report the results of the tests made to the department, as herein required, the department may revoke such permit or may refuse to renew any such permit.]

[267.505. NEGATIVE TEST REQUIRED, WHEN, EXCEPTION — IMPORTED CATTLE, TEST REQUIREMENTS — INTRASTATE SHIPMENTS, REQUIREMENTS FOR. — 1. All cattle eight months of age or over entering Missouri from any point outside the state and all cattle eight months of age or over exchanged, bartered or offered for sale or transported within the state of Missouri must have passed a negative test for brucellosis, conducted in an approved laboratory within thirty days prior to entry or within thirty days prior to sale, exchange, barter or being transported within the state. The state veterinarian may eliminate the test requirements on certain groups or classes of animals by specific regulations.

2. All cattle entering Missouri from any point outside the state shall be accompanied by an official health certificate stating that all animals listed thereon have passed a negative blood test for brucellosis within the previous thirty days or showing that they are eligible for entry into Missouri in accordance with the regulations of the department. All other shipments within the state must be accompanied by official certification of tests, vaccinations, health certificate, permits or waybills, which properly identify all the animals in the shipment or as otherwise specified in the regulations of the department.]

[267.510. CERTIFIED BRUCELLOSIS FREE HERD CERTIFICATES, ISSUANCE, QUALIFICATIONS — EXTENSION FOR YEAR. — A "certified brucellosis free herd" is one which has qualified for such status as herein provided. Any herd owner desiring such status must file

a signed application and agreement form with the department. The department shall authorize the necessary tests in order to qualify or requalify for such status.

(1) A herd may be certified as brucellosis free when it has met all the requirements for qualifications as set out in current uniform methods and rules of the Animal and Plant Health Inspection Service of the U.S.D.A. and as required by the United States Department of Agriculture and the state department of agriculture.

(2) The certification of a herd may be extended for another year when the herd retest requirements as outlined by current department regulations have been met.

(3) "Certified brucellosis free herd" certificates which shall be valid for one year, unless revoked, will be issued by cooperating state and federal officials, to owners whose herd meets the provisions of sections 267.470 to 267.550.]

[267.515. MODIFIED CERTIFIED BRUCELLOSIS FREE AREA — PETITIONS — CERTIFICATION EXTENDED WHEN — REGULATIONS IN AREA. — A "modified certified brucellosis free area" may be established as provided in this section.

(1) If sixty-five percent or more of the cattle owners within an area owning sixty-five percent of the cattle in such area sign a petition requesting eradication of brucellosis on an areawide basis, and the petition is filed with the department, then all cattle owners within such area shall be required to inaugurate and carry out brucellosis control plan A.

(2) All persons responsible for obtaining signatures of cattle owners on the petitions shall submit therewith an affidavit certifying that the petitions are true and accurate as witnessed, and the petitions shall be filed with the department along with an affidavit of the county clerk of the county that the petitions contain the names of not less than sixty-five percent of the cattle owners owning sixty-five percent of the cattle within the area as disclosed by the last assessment rolls of the one or more townships therein.

(3) When the last complete test of all herds within an area indicates that the number of reactors, exclusive of officially calfhooed vaccinated animals under thirty months of age and steers and spayed heifers of any age, does not exceed one percent and the herd infection does not exceed five percent, the area may be declared a "modified certified brucellosis free area" for a period of three years. Infected herds shall be quarantined until they have tested sufficiently as outlined in current brucellosis eradication regulations.

(4) The certification of an area may be extended when requirements, as jointly agreed upon by the United States Department of Agriculture and the state department of agriculture, are being carried out.

(5) The department may require the testing of all eligible cattle leaving a public stockyards market, licensed market and dealers premises for the purpose of screening beef type herds and for determining the level or rate of infection for the respective area of origin. If the total of the cattle screened or tested for the area is insufficient, then sufficient additional measures may be required by the department, including testing of herds at the farm level. The consignor of cattle shall, immediately upon delivery to a market, furnish the correct name and address of the owner of the herd or herds of origin, the county or other point of origin for all cattle in the consignment, and all dealers shall maintain records which provide such information in order to facilitate the proper screening of the herds of origin, and for the recertification of an area. Market operators and dealers shall make such information available to a representative of the department upon demand and to the veterinarian charged with testing of such cattle.

(6) The department is hereby granted the authority to enter all milk or dairy plants and cream buying stations for the purpose of collecting milk or cream for the conduct of the milk ring test. Operators of all such milk plants and cream buying stations shall maintain accurate records of all herd owners selling milk or cream to their plant and shall maintain an individual milk sample for the department on all milk collected in bulk, and shall make such information available to a representative of the department upon demand.

(7) Cattle which have passed a negative test for brucellosis shall be maintained separate and apart from any other untested cattle when such cattle are to be offered for sale, barter, exchange or movement within thirty days from date of the test.

(8) "Area" as used in this section shall include one or more townships in any county.

(9) When the livestock owners in ninety or more counties have petitioned the department for the eradication of brucellosis on an areawide basis under the provisions of plan A, all cattle owners in the remaining counties in the state shall be required to inaugurate and carry out brucellosis eradication plan A upon notice from the department.]

[267.520. QUARANTINED CATTLE SUBJECT TO RULES AND REGULATIONS — PERMIT REQUIRED FOR SALE OR TRANSPORTATION. — The owner of cattle which are under quarantine shall comply with all rules and regulations adopted by the department relating to the quarantine of cattle and with all orders issued by the department pertaining to the sale, movement, transfer or transportation of such cattle. Cattle under quarantine may be sold, transferred or transported only upon a permit issued by the department; provided that infected or reactor cattle under quarantine shall not be sold, moved, or transported for any purpose except on a permit issued by the department.]

[267.525. REACTOR ANIMAL KEPT FOR BREEDING, WHEN. — Notwithstanding any provision in any of sections 267.470 to 267.550, the department shall allow and permit the owner of any animal which is found to be a reactor, to retain such animal in quarantine and use the animal for breeding purposes in his own herd, where necessary or desirable in order to preserve valuable breeding cattle; but the permission shall not be granted if the state veterinarian determines that the eradication program would be adversely affected and permission shall not be granted unless the United States Department of Agriculture agrees that county brucellosis status will not be affected. Such reactor animal may not be sold, transferred, or moved except on a special permit issued by the department.]

[267.531. SEIZURE OF CATTLE — NOTICE — REDEMPTION — HEARING, JUDICIAL REVIEW — SALE, DISPOSITION OF PROCEEDS. — 1. Cattle which are held, moved or transported in violation of the provisions of sections 267.470 to 267.550, or the rules and regulations adopted hereunder, on order of the department of agriculture shall be seized and taken into custody by an authorized agent of the department of agriculture or by any state or county law enforcement officer at the request of the department. The order, together with a notice stating the reasons for the seizure and the rights of the owner under this section, shall be served upon the custodian at the time of seizure and copies thereof shall be mailed to the owner, if a person other than the custodian, by certified mail to his address as given by the custodian within twenty-four hours after the seizure. The department shall impound and hold all cattle seized and taken into custody at the owner's expense and without liability to the department. Any cattle so seized and impounded may be redeemed by the owner and released to him by the department, provided that all such animals shall have been tested for brucellosis and any reactors shall be tagged and branded or tagged as provided by law at the owner's expense. In order to redeem such cattle the owner shall pay all expenses including the care and feeding of such cattle and the expense of testing and branding. Any reactor cattle shall be consigned by the owner to slaughter upon redemption thereof.

2. Any person aggrieved by an order of seizure and impoundment may appeal therefrom by filing with the director of the department of agriculture a petition stating in detail his objections to the order, within five days after service or mailing of the order and notice. The director, or his authorized agent, within forty-eight hours of the filing of the appeal, shall hold a hearing to determine the validity of the order and shall either affirm the order or release the cattle. The hearing shall be conducted and judicial review of the director's decision may be had in the manner provided by chapter 536, RSMo. If an order of seizure and impoundment is

determined to be invalid, the expense of caring for the cattle and the cost of the proceedings shall be borne by the department of agriculture.

3. If the cattle are not redeemed by the owner, and if no appeal is taken within five days after service or mailing of the notice and order of seizure, the department may apply to the circuit court of any county in which the cattle are impounded and the department under court order shall sell the cattle for slaughter and deduct from the net proceeds thereof all expenses of the department in connection with the seizure and impoundment of the cattle and remit the balance to the owner.]

[267.535. VIOLATIONS MAY BE ENJOINED. — In addition to the remedies provided for in sections 267.470 to 267.550 or by law, the prosecuting attorney of any county in which a violation of any provision of sections 267.470 to 267.550 occurs or the attorney general of the state is hereby authorized to apply to any court of competent jurisdiction for, and such court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction to restrain any person from violating any provision of sections 267.470 to 267.550.]

[267.540. FALSE CERTIFICATE, MISDEMEANOR. — Any person who shall knowingly or willfully make any false certificate or falsify any statement in any certificate provided for in sections 267.470 to 267.550 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided by law.]

[267.545. VIOLATION, MISDEMEANOR. — Any person violating any provision of sections 267.470 to 267.550 shall be deemed guilty of a misdemeanor, and upon conviction shall be punished as provided by law.]

[267.550. TITLE OF LAW. — Sections 267.470 to 267.550 shall be cited as "The Missouri Brucellosis Control and Eradication Law".]

[267.551. DEFINITIONS. — As used in sections 267.551 to 267.556, the following terms shall mean:

(1) "Accredited and approved veterinarian", a veterinarian who has been accredited by the United States Department of Agriculture and approved by the department of agriculture of this state and who is duly licensed under the laws of this state to engage in the practice of veterinary medicine;

(2) "Bovine", male and female cattle or buffalo;

(3) "Director", the director of the department of agriculture of this state;

(4) "Official calfhood vaccinate", female cattle of any breed or female bison vaccinated while legal age by a veterinary services veterinarian, state veterinarian, or an accredited veterinarian with brucella abortus strain 19 vaccine;

(5) "Quarantined feedlot", a confined area under official state quarantine and approved jointly by the director of the department of agriculture and officials of the United States Federal Animal Health Office where all animals are to be classified as exposed to brucellosis;

(6) "'S' branded cattle", cattle which have been identified by branding with a hot iron bearing the letter "S" to be placed on the left jaw with a letter at least two inches high by two inches wide;

(7) "Spay", sterilization of a female animal by removal of the ovaries.]

[267.552. VACCINE, WHO MAY ADMINISTER — RULES AND REGULATIONS — HEALTH CERTIFICATES TO BE ISSUED — EXCEPTIONS TO CALFHOOD VACCINATIONS. — 1. Brucella abortus vaccine shall be administered to all required animals in accordance with a method to be approved by the Missouri department of agriculture in rules and regulations to be issued by the director as otherwise provided by law.

2. The director shall issue rules and regulations regarding the required use and sale of brucella abortus vaccine. The vaccine shall only be sold to accredited and approved veterinarians who have completed a training program sponsored by the director on the use of the vaccine.

3. The director shall issue a health certificate of compliance for those animals treated pursuant to the provisions of sections 267.551 to 267.556.

4. The director, at his discretion, may rescind the provisions of sections 267.551 to 267.556 as they pertain to calfhood vaccination if the state of Missouri has maintained a class "A" status for a period of two years, as such term is defined by rules and regulations provided by the United States Department of Agriculture. However, in the event this state cannot maintain a class "A" status, and goes back to a class "B" status, then the provisions of sections 267.551 to 267.556 shall be in full force.]

[267.553. FEMALE CATTLE AND BUFFALO TO BE VACCINATED, SPAYED, BRANDED — EXCEPTIONS — ANIMALS MOVED FROM THIS STATE IN INTERSTATE COMMERCE, EXEMPT.

— All female bovine born after January 1, 1984, and having reached the age of four months, except those animals from a certified brucellosis free herd as defined under section 267.510, shall be vaccinated as required by the director, spayed, or "S" branded prior to transfer of ownership. Such animals may move directly from a farm of origin to an approved market where the provisions of sections 267.551 to 267.556 will be complied with prior to the release of such animals from the market. Any nonvaccinated female bovine born before January 1, 1984, may, after normal testing procedures, be sold within the state. Finished fed heifers which have not been vaccinated in accordance with the provisions of sections 267.551 to 267.556, but that are moving through cattle market channels directly to slaughter, shall be exempt from the "S" branding or spaying requirement. "S" branded cattle shall only be moved to a quarantined feedlot or through cattle market channels directly to slaughter. Animals being moved from this state in interstate commerce shall be exempt from the provisions of sections 267.551 to 267.556, but shall satisfy all requirements of the state of destination. Any calves or cows brought into this state shall meet the same calfhood vaccination requirement that applies to calves and cows raised in this state. Health certificates shall be issued by the director only for calves and cows that satisfy the requirements of calfhood vaccination and to nonvaccinated calves and cows meeting the requirements of a certified brucellosis free herd as provided under section 267.510.]

[267.554. OTHER VACCINES MAY BE USED, WHEN. — Notwithstanding the other provisions of sections 267.551 to 267.556, the director shall be empowered to require the use of another type of vaccine developed after January 1, 1984, found to be more effective than the vaccine, brucella abortus.]

[267.555. INHERITANCE OF FEMALE LIVESTOCK — SPECIAL PROVISIONS FOR SALE. —

1. Notwithstanding any other provision of sections 267.551 to 267.556, any legally qualified heir or heirs who receive an interest in any female bovine from a decedent's estate or who receives a controlling interest in such livestock as the result of a death, and if said heir or heirs, or said heir or heirs' legal representative make provisions to sell such livestock herd in its entirety, such livestock shall be exempt from the provisions of section 267.553 if said livestock shall pass two successive tests as defined under chapter 267, given at least sixty days apart for the detection of the disease, brucellosis.

2. The director shall issue a health certificate of compliance for such livestock herds that favorably pass such testing.

3. If such animals shall fail testing procedures prescribed by the director, such livestock shall be treated equally with other animals that fail such testing procedures.]

[267.556. ELIGIBILITY FOR INDEMNITY PAYMENTS. — To be eligible for an indemnity payment under section 267.490, the owner of cattle for which the indemnity is sought must comply with the provisions of sections 267.551 to 267.556.]

Approved June 23, 2004

SB 757 [SCS SB 757]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to motor vehicles.

AN ACT to repeal sections 301.010, 301.069, 302.775, 304.022, 307.175, and 390.020, RSMo, and to enact in lieu thereof six new sections relating to transportation, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
- 301.010. Definitions.
- 301.069. Driveaway license plates, restriction on use — annual driveaway license or choice of biennial license, fees.
- 302.775. Provisions of law not applicable, when.
- 304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
- 307.175. Sirens and flashing lights emergency use, persons authorized — violation, penalty.
- 390.020. Definitions.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.010, 301.069, 302.775, 304.022, 307.175, and 390.020, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 301.010, 301.069, 302.775, 304.022, 307.175, and 390.020, to read as follows:

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

- (1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of six hundred pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, and handlebars for steering control;
- (2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;
- (3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;
- (4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;
- (5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation"[,];

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignee;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or

from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of [twenty-five] **fifty** miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and is not operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, does not have more than four axles and does not pull a trailer which has more than two axles. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(28) "Log truck", a vehicle which is not a local log truck and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(29) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(30) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(31) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(32) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(33) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(34) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(35) "Motorcycle", a motor vehicle operated on two wheels;

(36) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(37) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(38) "Municipality", any city, town or village, whether incorporated or not;

(39) "Nonresident", a resident of a state or country other than the state of Missouri;

(40) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(41) "Operator", any person who operates or drives a motor vehicle;

(42) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(43) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(44) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(45) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(46) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(47) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(48) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination;

(49) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(50) "Salvage vehicle", a motor vehicle, semitrailer or house trailer which, by reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it, or by an insurance company as a result of settlement of a claim for loss due to damage or theft; or a vehicle, ownership of which is evidenced by a salvage title; or abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property";

(51) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(52) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(53) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(54) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term "specially constructed motor vehicle" includes kit vehicles;

(55) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(56) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(57) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(58) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(59) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(60) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(61) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(62) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(63) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition

of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(64) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(65) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(66) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.069. DRIVEAWAY LICENSE PLATES, RESTRICTION ON USE — ANNUAL DRIVEAWAY LICENSE OR CHOICE OF BIENNIAL LICENSE, FEES. — A driveaway license plate may not be used on a vehicle used or operated on a highway except for the purpose of transporting vehicles in transit. Driveaway license plates may not be used by tow truck operators transporting wrecked, disabled, abandoned, improperly parked or burned vehicles. For each driveaway license there shall be paid an annual license fee of forty-four dollars and fifty cents for one set of plates or such insignia as the director may issue which shall be attached to the motor vehicle as prescribed in this chapter. Applicants may choose to obtain biennial driveaway licenses. The fee for biennial driveaway licenses shall be eighty-nine dollars. For single trips the fee shall be four dollars, and descriptive insignia shall be prepared and issued at the discretion of the director who shall also prescribe the type of equipment used to attach such vehicles in combinations.

302.775. PROVISIONS OF LAW NOT APPLICABLE, WHEN. — The provisions of sections 302.700 to 302.780 shall not apply to:

- (1) Any person driving a farm vehicle as defined in section 302.700;
- (2) Any active duty military personnel, members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, while driving military vehicles for military purposes;
- (3) Any person who drives emergency or fire equipment necessary to the preservation of life or property or the execution of emergency governmental functions under emergency conditions;
- (4) **Any person qualified to operate the equipment under subdivision (3) of this section when operating such equipment in other functions such as parades, special events, repair, service or other authorized movements;**

(5) Any person driving or pulling a recreational vehicle, as defined in sections 301.010 and 700.010, RSMo, for personal use; and

[(5)] (6) Any other class of persons exempted by rule or regulation of the director, which rule or regulation is in compliance with the Commercial Motor Vehicle Safety Act of 1986 and any amendments or regulations drafted to that act.

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one

lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol or a state park ranger, those vehicles operated by enforcement personnel [by the division of motor carrier and railroad safety of the department of economic development] **of the state highways and transportation commission**, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44, RSMo;

(7) Any vehicle operated by an authorized employee of the department of corrections, who as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

5. (1) The driver of any vehicle referred to in subsection 4 of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire;

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to 304.026;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions;

(3) The exemptions [herein] granted to an emergency vehicle **pursuant to subdivision (2) of this subsection** shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

6. No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

7. Violation of this section shall be deemed a class C misdemeanor.

307.175. SIRENS AND FLASHING LIGHTS EMERGENCY USE, PERSONS AUTHORIZED — VIOLATION, PENALTY. — Motor vehicles and equipment which are operated by any member of an organized fire department, ambulance association, or rescue squad, whether paid or volunteer, may be operated on streets and highways in this state as an emergency vehicle under the provisions of section 304.022, RSMo, while responding to a fire call or ambulance call or at the scene of a fire call or ambulance call and while using or sounding a warning siren and [while] using or displaying thereon fixed, flashing or rotating blue lights, but sirens and blue lights shall be used only in bona fide emergencies. Permits for the operation of such vehicles equipped with sirens or blue lights shall be in writing and shall be issued and may be revoked by the chief of an organized fire department, organized ambulance association, or rescue squad and no person shall use or display a siren or blue lights on a motor vehicle, fire, ambulance, or rescue equipment without a valid permit authorizing the use. Permit to use a siren or lights as heretofore set out does not relieve the operator of the vehicle so equipped with complying with all other traffic laws and regulations. Violation of this section constitutes a class A misdemeanor.

390.020. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the words and terms mean:

(1) "Agricultural commodities in bulk", commodities conforming to the meaning of "commodities in bulk" as defined in this section, which are agricultural, horticultural, viticultural or forest products or any other products which are grown or produced on a farm or in a forest, and which have not undergone processing at any time since movement from the farm or forest, or processed or unprocessed grain, feed, feed ingredients, or forest products;

(2) "Certificate", a written document authorizing a common carrier to engage in intrastate commerce and issued under the provisions of this chapter;

(3) "Charter service", the transportation of a group of persons who, pursuant to a common purpose and at a fixed charge for the vehicle, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group from a point of origin to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartering group after having left the place of origin;

(4) "Commercial zone", unless otherwise increased pursuant to the provisions of subdivision (4) of section 390.041, any municipality within this state together with that territory either within or without the state of Missouri, extending one mile beyond the corporate limits of such municipality and one additional mile for each fifty thousand inhabitants or portion thereof; however, any commercial zone of a city not within a county shall extend eighteen miles beyond that city's corporate limits and shall also extend throughout any first class charter county which adjoins that zone;

(5) "Commodities in bulk", commodities, which are fungible, flowable, capable of being poured or dumped, tendered for transportation unpackaged, incapable of being counted, but are weighed or measured by volume and which conform to the shape of the vehicle transporting them;

(6) "Common carrier", any person which holds itself out to the general public to engage in the transportation by motor vehicle of passengers or property for hire or compensation upon the public highways and airlines engaged in intrastate commerce;

(7) "Contract carrier", any person under individual contracts or agreements which engage in transportation by motor vehicles of passenger or property for hire or compensation upon the public highways;

(8) "Corporate family", a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a one hundred percent interest;

(9) "Division", the division of motor carrier and railroad safety of the department of economic development;

(10) "Driveaway operator"[,]:

(a) Any motor carrier who moves any commercial motor vehicle or assembled automobile singly under its own power or in any other combination of two or more vehicles under the power of one of said vehicles upon any public highway for the purpose of delivery for sale or for delivery either before or after sale;

(b) A person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) A person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(11) "Dump truck", any open-top vehicle, including dump trailers, and those trailers commonly referred to as hopper trailers and/or belly dump trailers, that discharges its load by tipping or opening the body in such a manner that the load is ejected or dumped by gravity but does not include tank or other closed-top vehicles, or vehicles that discharge cargo by means of an auger, conveyor belt, air pressure, pump or other mechanical means;

(12) "Household goods", personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; new or used furniture; store or office furniture or fixtures; equipment of museums, institutions, hospitals and other establishments; and articles, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods;

(13) "Interstate commerce", commerce between a point in this state and a point outside this state, or between points outside this state when such commerce moves through this state whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by any other regulated means of transportation where the commodity does not come to rest or change its identity during the movement;

(14) "Intrastate commerce", commerce moving wholly between points within this state, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by any other means of transportation;

(15) "Irregular route", the course or line of travel to be used by a motor carrier's vehicle when not restricted to any specific route or routes within the area the motor carrier is authorized to serve;

(16) "Less-than-truckload lots", lots of freight, other than a truckload lot, being transported on the motor vehicle at one time;

(17) "Mobile home", house trailers, cabin trailers, bungalow trailers, mobile homes and any other transportable building unit designed to be used for residential, commercial, industrial or recreational purposes, including special equipment, wheels, tires, axles, springs, racks, undercarriages and undersupports used or useful in connection with the transportation of mobile homes when transported as part of the transportation of mobile homes;

(18) "Motor carrier", any person engaged in the transportation of property or passengers, or both, for compensation or hire, over the public roads of this state by motor vehicle. The term includes both common and contract carriers;

(19) "Motor vehicle", any vehicle, truck, truck-tractor, trailer, or semitrailer, motor bus or any self-propelled vehicle used upon the highways of the state in the transportation of property or passengers;

(20) "Party", any person admitted as a party to a division proceeding or seeking and entitled as a matter of right to admission to a division proceeding;

(21) "Permit", a permit issued under the provisions of this chapter to a contract carrier to engage in intrastate or interstate commerce or to a common carrier to engage in interstate commerce;

(22) "Person", any individual or other legal entity, whether such entity is a proprietorship, partnership, corporation, company, association or joint-stock association, including the partners, officers, employees, and agents of the person, as well as any trustees, assignees, receivers, or personal representatives of the person;

(23) "Private carrier", any person engaged in the transportation of property or passengers by motor vehicle upon public highways, but not as a common or contract carrier by motor vehicle; and includes any person who transports property by motor vehicle where such transportation is incidental to or in furtherance of his commercial enterprises;

(24) "Public highway", every public street, road, highway or thoroughfare of any kind used by the public, whether actually dedicated to the public;

(25) "Regular route", a specific and determined course to be traveled by a motor carrier's vehicle rendering service to, from or between various points or localities in this state;

(26) "School bus", any motor vehicle while being used solely to transport students to or from school or to transport students to or from any place for educational purposes or school purposes;

(27) "Taxicab", any motor vehicle performing a bona fide for hire taxicab service having a capacity of not more than five passengers, exclusive of the driver, and not operated on a regular route or between fixed termini;

(28) "Truckload lot", a lot or lots of freight tendered to a carrier by one consignor or one consignee for delivery at the direction of the consignor or consignee with the lot or lots being the only lot or lots transported on the motor vehicle at any one time.

SECTION B. EMERGENCY CLAUSE — Because immediate action is necessary to ensure the efficient operation of emergency vehicles, the repeal and reenactment of sections 302.775, 304.022, and 307.175 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 302.775, 304.022, and 307.175 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2004

SB 758 [CCS HCS SCS SB 758]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to local taxes.

AN ACT to repeal sections 67.1360, 67.2015, and 94.270, RSMo, and to enact in lieu thereof three new sections relating to local taxes.

SECTION

- A. Enacting clause.
- 67.578. Certain counties (Andrew) may impose a sales tax for museum purposes, amount — ballot, effective date — collection of tax — applicable provisions and exemptions — museum board, members, duties — repeal of tax, effective date.
- 67.1360. Transient guests to pay tax for funding the promotion of tourism, certain cities and counties, vote required.
- 94.270. Power to license, tax and regulate certain businesses and occupations — prohibition on local license fees in excess of certain amounts in certain cities (Edmundson, Woodson Terrace).
- 67.2015. Surcharge for tickets or admission to certain tourist attractions and hotels, motels, and campgrounds (Shannon County).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.1360, 67.2015, and 94.270, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 67.578, 67.1360, and 94.270, to read as follows:

67.578. CERTAIN COUNTIES (ANDREW) MAY IMPOSE A SALES TAX FOR MUSEUM PURPOSES, AMOUNT — BALLOT, EFFECTIVE DATE — COLLECTION OF TAX — APPLICABLE PROVISIONS AND EXEMPTIONS — MUSEUM BOARD, MEMBERS, DUTIES — REPEAL OF TAX, EFFECTIVE DATE. — **1.** The governing authority of any county of the third classification without a township form of government and with more than sixteen thousand four hundred but less than sixteen thousand five hundred inhabitants may impose a sales tax in an amount not to exceed one-fifth of one percent on all retail sales made in the county which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, to be used solely for the funding of museums. For purposes of this section, the term "museums" means museums operating in the county, which are registered with the United States Internal Revenue Service as a 501(c)(3) corporation and which are considered by the board to be a tourism attraction. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no sales tax shall be imposed pursuant to this section unless the governing authority submits to the voters of the county, at a county or state general, primary, or special election, a proposal to authorize the governing authority to impose the tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

"Shall the county of (insert the name of the county) impose a sales tax of (insert rate of percent) percent for the funding of museums? "Museums" means museums operating in the county, which are registered with the United States Internal Revenue Service as a 501(c)(3) corporation and which are considered by the museum board to be a tourism attraction."

☐ Yes ☐ No

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the sales tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the tax. If the proposal receives less than the required majority of votes, then the governing authority shall have no power to impose the tax unless and until the governing authority has again submitted another proposal to authorize the governing authority to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters voting thereon.

3. On or after the effective date of the tax, the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087, RSMo, shall apply. The director may retain an amount not to exceed one percent for deposit in the general revenue fund to offset the costs of collection. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing authority may authorize the use of a bracket system similar to that authorized in section 144.285, RSMo, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the county shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

4. All applicable provisions in sections 144.010 to 144.525, RSMo, governing the state sales tax, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons pursuant to sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer pursuant to the state sales tax law for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid pursuant to this section, or in the event a determination has been made against the person for taxes and penalty pursuant to this section, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo.

5. The governing authority may authorize any museum board already existing in the county, or may establish a museum board, to expend revenue collected pursuant to this section. In the event that no museum board already exists, the board established pursuant to this section shall consist of six members who are appointed by the governing authority from a list of candidates supplied by the chair of each of the two major political parties of the county, with three members from each of the two parties. Members shall serve for three-year terms, but of the members first appointed, one shall be appointed for a term of one year, two shall be appointed for a term of two years, and two shall be appointed for a term of three years. Each member shall be a resident of the county. The members shall not receive compensation for service on the board, but shall be reimbursed from the revenues collected pursuant to this section for any reasonable and necessary expenses incurred in service on the board. The board shall determine in what manner the revenues will be expended, and disbursements of these moneys shall be made strictly in accordance with this section. Expenditures may be made for the employment of personnel selected by the board to assist in carrying out the duties of the board, and the board is expressly authorized to employ such personnel.

6. The governing authority may submit the question of repeal of the tax to the voters at any county or state general, primary, or special election. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the county of (insert name of county) repeal the sales tax of (insert rate of percent) percent for the funding of museums?

☐ Yes ☐ No

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which the repeal was approved.

67.1360. TRANSIENT GUESTS TO PAY TAX FOR FUNDING THE PROMOTION OF TOURISM, CERTAIN CITIES AND COUNTIES, VOTE REQUIRED. — The governing body of:

(1) A city with a population of more than seven thousand and less than seven thousand five hundred;

(2) A county with a population of over nine thousand six hundred and less than twelve thousand which has a total assessed valuation of at least sixty-three million dollars, if the county submits the issue to the voters of such county prior to January 1, 2003;

(3) A third class city which is the county seat of a county of the third classification without a township form of government with a population of at least twenty-five thousand but not more than thirty thousand inhabitants;

(4) Any fourth class city having, according to the last federal decennial census, a population of more than one thousand eight hundred fifty inhabitants but less than one thousand nine hundred fifty inhabitants in a county of the first classification with a charter form of government and having a population of greater than six hundred thousand but less than nine hundred thousand inhabitants;

(5) Any city having a population of more than three thousand but less than eight thousand inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(6) Any city having a population of less than two hundred fifty inhabitants in a county of the fourth classification having a population of greater than forty-eight thousand inhabitants;

(7) Any fourth class city having a population of more than two thousand five hundred but less than three thousand inhabitants in a county of the third classification having a population of more than twenty-five thousand but less than twenty-seven thousand inhabitants;

(8) Any third class city with a population of more than three thousand two hundred but less than three thousand three hundred located in a county of the third classification having a population of more than thirty-five thousand but less than thirty-six thousand;

(9) Any county of the second classification without a township form of government and a population of less than thirty thousand;

(10) Any city of the fourth class in a county of the second classification without a township form of government and a population of less than thirty thousand;

(11) Any county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(12) Any city of the fourth class with a population of more than one thousand eight hundred but less than two thousand in a county of the third classification with a township form of government and a population of at least twenty-eight thousand but not more than thirty thousand;

(13) Any city of the third class with a population of more than seven thousand two hundred but less than seven thousand five hundred within a county of the third classification with a population of more than twenty-one thousand but less than twenty-three thousand;

(14) Any fourth class city having a population of more than two thousand eight hundred but less than three thousand one hundred inhabitants in a county of the third classification with a township form of government having a population of more than eight thousand four hundred but less than nine thousand inhabitants;

(15) Any fourth class city with a population of more than four hundred seventy but less than five hundred twenty inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(16) Any third class city with a population of more than three thousand eight hundred but less than four thousand inhabitants located in a county of the third classification with a population of more than fifteen thousand nine hundred but less than sixteen thousand inhabitants;

(17) Any fourth class city with a population of more than four thousand three hundred but less than four thousand five hundred inhabitants located in a county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(18) Any fourth class city with a population of more than two thousand four hundred but less than two thousand six hundred inhabitants located in a county of the first classification without a charter form of government with a population of more than fifty-five thousand but less than sixty thousand inhabitants;

(19) Any fourth class city with a population of more than two thousand five hundred but less than two thousand six hundred inhabitants located in a county of the third classification with a population of more than nineteen thousand one hundred but less than nineteen thousand two hundred inhabitants;

(20) Any county of the third classification without a township form of government with a population greater than sixteen thousand but less than sixteen thousand two hundred inhabitants;

(21) Any county of the second classification with a population of more than forty-four thousand but less than fifty thousand inhabitants;

(22) Any third class city with a population of more than nine thousand five hundred but less than nine thousand seven hundred inhabitants located in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(23) Any city of the fourth classification with more than five thousand two hundred but less than five thousand three hundred inhabitants located in a county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants; [or]

(24) Any third class city with a population of more than nineteen thousand nine hundred but less than twenty thousand in a county of the first classification without a charter form of government and with a population of more than one hundred ninety-eight thousand but less than one hundred ninety-eight thousand two hundred inhabitants;

(25) Any city of the fourth classification with more than five thousand four hundred but fewer than five thousand five hundred inhabitants and located in more than one county;

(26) Any city of the fourth classification with more than six thousand three hundred but fewer than six thousand five hundred inhabitants and located in more than one county;

(27) Any city of the fourth classification with more than seven thousand seven hundred but less than seven thousand eight hundred inhabitants located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants;

(28) Any city of the fourth classification with more than two thousand nine hundred but less than three thousand inhabitants located in a county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants; or

(29) Any city of the third classification with more than nine thousand three hundred but less than nine thousand four hundred inhabitants;

may impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels, motels, bed and breakfast inns and campgrounds and any docking facility which rents slips to

recreational boats which are used by transients for sleeping, which shall be at least two percent, but not more than five percent per occupied room per night, except that such tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general, primary or special election, a proposal to authorize the governing body of the city or county to impose a tax pursuant to the provisions of this section and section 67.1362. The tax authorized by this section and section 67.1362 shall be in addition to any charge paid to the owner or operator and shall be in addition to any and all taxes imposed by law and the proceeds of such tax shall be used by the city or county solely for funding the promotion of tourism. Such tax shall be stated separately from all other charges and taxes.

94.270. POWER TO LICENSE, TAX AND REGULATE CERTAIN BUSINESSES AND OCCUPATIONS — PROHIBITION ON LOCAL LICENSE FEES IN EXCESS OF CERTAIN AMOUNTS IN CERTAIN CITIES (EDMUNDSON, WOODSON TERRACE). — 1.

The mayor and board of aldermen shall have power and authority to regulate and to license and to levy and collect a license tax on auctioneers, druggists, hawkers, peddlers, banks, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, hotels, public boardinghouses, billiard and pool tables and other tables, bowling alleys, lumber dealers, real estate agents, loan companies, loan agents, public buildings, public halls, opera houses, concerts, photographers, bill posters, artists, agents, porters, public lecturers, public meetings, circuses and shows, for parades and exhibitions, moving picture shows, horse or cattle dealers, patent right dealers, stockyards, inspectors, gaugers, mercantile agents, gas companies, insurance companies, insurance agents, express companies, and express agents, telegraph companies, light, power and water companies, telephone companies, manufacturing and other corporations or institutions, automobile agencies, and dealers, public garages, automobile repair shops or both combined, dealers in automobile accessories, gasoline filling stations, soft drink stands, ice cream stands, ice cream and soft drink stands combined, soda fountains, street railroad cars, omnibuses, drays, transfer and all other vehicles, traveling and auction stores, plumbers, and all other business, trades and avocations whatsoever, and fix the rate of carriage of persons, drayage and cartage of property; and to license, tax, regulate and suppress ordinaries, money brokers, money changers, intelligence and employment offices and agencies, public masquerades, balls, street exhibitions, dance houses, fortune tellers, pistol galleries, corn doctors, private venereal hospitals, museums, menageries, equestrian performances, horoscopic views, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, billiard tables, pool tables and other tables, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, tipping houses, and sales of unclaimed goods by express companies or common carriers, auto wrecking shops and junk dealers; to license, tax and regulate hackmen, draymen, omnibus drivers, porters and all others pursuing like occupations, with or without vehicles, and to prescribe their compensation; and to regulate, license and restrain runners for steamboats, cars, and public houses; and to license ferries, and to regulate the same and the landing thereof within the limits of the city, and to license and tax auto liveries, auto drays and jitneys.

2. Notwithstanding any other law to the contrary, no city of the fourth classification with more than eight hundred but less than nine hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of twenty-seven dollars per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitation of this subsection shall be automatically reduced to comply with this subsection.

3. Notwithstanding any other law to the contrary, no city of the fourth classification with more than four thousand one hundred but less than four thousand two hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of thirteen dollars and fifty cents per room per year. No hotel or motel

in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitation of this subsection shall be automatically reduced to comply with this subsection.

[67.2015. SURCHARGE FOR TICKETS OR ADMISSION TO CERTAIN TOURIST ATTRACTIONS AND HOTELS, MOTELS, AND CAMPGROUNDS (SHANNON COUNTY). — 1. The governing body of any county of the third classification without a township form of government and with more than eight thousand three hundred but less than eight thousand four hundred inhabitants may impose, by ordinance or order, a surcharge on the sale of each ticket or other charge allowing admission to or participation in any private tourist attraction and on the daily rental of rooms or accommodations paid by transient guests of hotels, motels or campgrounds, as defined in section 94.802, RSMo, in such county, at a rate not to exceed five percent of such admission or amount. For purposes of this section, "private tourist attraction" means:

(1) Organized trail rides; and

(2) Canoe rentals. Attractions operating on an occasional or intermittent basis for fund-raising purposes by nonprofit charitable organizations whose ordinary activities do not involve the operation of such attractions shall be exempt from the surcharge imposed by this section.

2. Every retailer, vendor, operator, and other person who sells goods and services subject to the surcharge imposed pursuant to this section shall be liable and responsible for the payment of surcharges due and shall make a return and remit such surcharges to the county, at such times and in such manner as the governing body of the county shall prescribe. The collection of the surcharges imposed by this section shall be computed in accordance with schedules or systems approved by the governing body of the county.

3. All surcharges authorized and collected under this section shall be deposited by the county in a special trust fund to be known as the "County Tourism Surcharge Trust Fund". The moneys in such fund shall not be commingled with any funds of the county. Moneys in the fund shall be used solely by the county for the promotion of tourism within the county. The surcharge authorized by this section shall be in addition to any and all other taxes allowed by law, but no order imposing a surcharge pursuant to this section shall be effective unless the governing body of the county submits to the voters of the county at a county or state general, primary, or special election a proposal to authorize the governing body of the county to impose such surcharge.

4. The ballot of submission shall contain, but need not be limited to:

Shall the county of (insert name of county) impose a surcharge of (insert rate of tax) percent on the sales, charges or admissions on all hotels, motels or campgrounds rented for thirty days or less, and on the sales, charges or admissions to all private tourist attractions in the county?

☐ YES ☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the order imposing the surcharge shall be effective. If a majority of the votes cast by the qualified voters voting on the proposal are opposed to the proposal, then the governing body of the county shall have no power to impose the surcharge authorized in this section unless and until the governing body of the county again submits another proposal to authorize the governing body of the county to impose the surcharge authorized by this section, and such proposal is approved by the requisite majority of the qualified voters voting thereon.

5. The surcharge authorized by this section shall become effective within ninety days from the date such surcharges are approved by the voters of the county pursuant to this section. After the effective date of any surcharge imposed by this section, the county shall perform all functions incident to the administration, collection, enforcement, and operation of the surcharge. The surcharge imposed by this section shall be reported upon such forms as may be prescribed by the governing body of the county.]

Approved July 9, 2004

SB 762 [CCS HS HCS SCS#2 SB 762]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various provisions relating to foster care and protective services for children.

AN ACT to repeal sections 210.025, 210.565 and 210.760, RSMo, and to enact in lieu thereof eight new sections relating to foster care.

SECTION

- A. Enacting clause.
- 210.025. Criminal background checks, persons receiving state or federal funds for child care, procedure — rulemaking authority.
- 210.482. Background checks for emergency placements, requirements, exceptions — cost, paid by whom.
- 210.487. Background checks for foster families, requirements — costs, paid by whom — rulemaking authority.
- 210.542. Training and standards for foster parents to be provided, when — evaluation of foster parents.
- 210.565. Relatives of child shall be given foster home placement, when — relative, defined — death or dissolution not to affect grandparents' status — specific findings required, when — age of relative not a factor, when — federal requirements to be followed for placement of Native American children.
- 210.760. Placement in foster care — division's duties — removal of children from school, restrictions.
- 210.762. Family support team meetings to be held, when — who may attend — form to be used.
- 210.764. Certain case records available for review by parents or guardians.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 210.025, 210.565, and 210.760, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 210.025, 210.482, 210.487, 210.542, 210.565, 210.760, 210.762, and 210.764, to read as follows:

210.025. CRIMINAL BACKGROUND CHECKS, PERSONS RECEIVING STATE OR FEDERAL FUNDS FOR CHILD CARE, PROCEDURE — RULEMAKING AUTHORITY. — 1. To qualify for receipt of state or federal funds for providing child-care services in the home either by direct payment or through reimbursement to a child-care beneficiary, an applicant and any person over the age of [eighteen] **seventeen** who is living in the applicant's home shall be required to submit to a criminal background check pursuant to section 43.540, RSMo, and a check of the central registry for child abuse established in section 210.145. Effective January 1, 2001, the requirements of this subsection or subsection 2 of this section shall be satisfied through registration with the family care safety registry established in sections 210.900 to 210.936. Any costs associated with such checks shall be paid by the applicant.

2. Upon receipt of an application for state or federal funds for providing child-care services in the home, the **family support** division [of family services] shall:

(1) Determine if a probable cause finding of child abuse or neglect involving the applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home has been recorded pursuant to section 210.221 or 210.145;

(2) Determine if the applicant or any person over the age of [eighteen] **seventeen** who is living in the applicant's home has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.221 or 210.496; and

(3) **Upon initial application, require the applicant to submit to fingerprinting and request a criminal background check of the applicant and any person over the age of [eighteen] **seventeen** who is living in the applicant's home pursuant to section 43.540, RSMo, and section 210.487, and inquire of the applicant whether any children less than seventeen years of age residing in the applicant's home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.**

3. Except as otherwise provided in subsection 4 of this section, upon completion of the background checks in subsection 2 of this section, an applicant shall be denied state or federal funds for providing child care if such applicant [or], any person over the age of [eighteen] **seventeen** who is living in the applicant's home, **and any child less than seventeen years of age who is living in the applicant's home and who the division has determined has been certified as an adult for the commission of a crime:**

(1) Has had a probable cause finding of child abuse or neglect pursuant to section 210.145 **or section 210.152;**

(2) Has been refused licensure or has experienced licensure suspension or revocation pursuant to section 210.496;

(3) Has pled guilty or nolo contendere to or been found guilty of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo, with the exception of the sale of fireworks, as defined in section 320.110, RSMo, to a child under the age of eighteen; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge or any offenses or reports which will disqualify an applicant from receiving state or federal funds.

4. An applicant shall be given an opportunity by the division to offer any extenuating or mitigating circumstances regarding the findings, refusals or violations against such applicant or any person over the age of [eighteen] **seventeen or less than seventeen** who is living in the applicant's home listed in subsection 2 of this section. Such extenuating and mitigating circumstances may be considered by the division in its determination of whether to permit such applicant to receive state or federal funds for providing child care in the home.

5. An applicant who has been denied state or federal funds for providing child care in the home may appeal such denial decision in accordance with the provisions of section 208.080, RSMo.

6. If an applicant is denied state or federal funds for providing child care in the home based on the background check results for any person over the age of [eighteen] **seventeen** who is living in the applicant's home, the applicant shall not apply for such funds until such person is no longer living in the applicant's home.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

210.482. BACKGROUND CHECKS FOR EMERGENCY PLACEMENTS, REQUIREMENTS, EXCEPTIONS — COST, PAID BY WHOM. — 1. If the emergency placement of a child in a private home is necessary due to the unexpected absence of the child's parents, legal guardian, or custodian, the juvenile court or children's division:

(1) May request that a local or state law enforcement agency or juvenile officer, subject to any required federal authorization, immediately conduct a name-based criminal history record check to include full orders of protection and outstanding warrants of each

person over the age of seventeen residing in the home by using the Missouri uniform law enforcement system (MULES) and the National Crime Information Center to access the Interstate Identification Index maintained by the Federal Bureau of Investigation; and

(2) Shall determine or, in the case of the juvenile court, shall request the division to determine whether any person over the age of seventeen years residing in the home is listed on the child abuse and neglect registry.

For any children less than seventeen years of age residing in the home, the children's division shall inquire of the person with whom an emergency placement of a child will be made whether any children less than seventeen years of age residing in the home have ever been certified as an adult and convicted of, or pled guilty or nolo contendere to any crime.

2. If a name-based search has been conducted pursuant to subsection 1 of this section, within fifteen business days after the emergency placement of the child in the private home, and if the private home has not previously been approved as a foster or adoptive home, all persons over the age of seventeen residing in the home and all children less than seventeen residing in the home who the division has determined has been certified as an adult for the commission of a crime, other than persons within the second degree of consanguinity and affinity to the child, shall report to a local law enforcement agency for the purpose of providing two sets of fingerprints each and accompanying fees, pursuant to section 43.530, RSMo. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. Results of the checks will be provided to the juvenile court or children's division office requesting such information. Any child placed in emergency placement in a private home shall be removed immediately if any person residing in the home fails to provide fingerprints after being requested to do so, unless the person refusing to provide fingerprints ceases to reside in the private home.

3. If the placement of a child is denied as a result of a name-based criminal history check and the denial is contested, all persons over the age of seventeen residing in the home and all children less than seventeen years of age residing in the home who the division has determined has been certified as an adult for the commission of a crime shall, within fifteen business days, submit to the juvenile court or the children's division two sets of fingerprints in the same manner described in subsection 2 of this section, accompanying fees, and written permission authorizing the juvenile court or the children's division to forward the fingerprints to the state criminal record repository for submission to the Federal Bureau of Investigation. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

4. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

5. For the purposes of this section, "emergency placement" refers to those limited instances when the juvenile court or children's division is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

210.487. BACKGROUND CHECKS FOR FOSTER FAMILIES, REQUIREMENTS — COSTS, PAID BY WHOM — RULEMAKING AUTHORITY. — 1. When conducting investigations of persons for the purpose of foster parent licensing, the division shall:

(1) Conduct a search for all persons over the age of seventeen in the applicant's household for evidence of full orders of protection. The office of state courts administrator shall allow access to the automated court information system by the division. The clerk

of each court contacted by the division shall provide the division information within ten days of a request; and

(2) Obtain two sets of fingerprints for any person over the age of seventeen in the applicant's household in the same manner set forth in subsection 2 of section 210.482. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The highway patrol shall assist the division and provide the criminal fingerprint background information, upon request; and

(3) Determine whether any person over the age of seventeen residing in the home is listed on the child abuse and neglect registry.

2. Subject to appropriation, the total cost of fingerprinting required by this section may be paid by the state, including reimbursement of persons incurring fingerprinting costs under this section.

3. The division may make arrangements with other executive branch agencies to obtain any investigative background information.

4. The division may promulgate rules that are necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.

210.542. TRAINING AND STANDARDS FOR FOSTER PARENTS TO BE PROVIDED, WHEN — EVALUATION OF FOSTER PARENTS. — 1. The children's division shall provide certain standards and training that prospective foster care parents shall meet before becoming licensed.

2. The children's division shall provide performance-based criteria for the evaluation of licensed foster parents and may establish by rule the frequency of such evaluation.

210.565. RELATIVES OF CHILD SHALL BE GIVEN FOSTER HOME PLACEMENT, WHEN — RELATIVE, DEFINED — DEATH OR DISSOLUTION NOT TO AFFECT GRANDPARENTS' STATUS — SPECIFIC FINDINGS REQUIRED, WHEN — AGE OF RELATIVE NOT A FACTOR, WHEN — FEDERAL REQUIREMENTS TO BE FOLLOWED FOR PLACEMENT OF NATIVE AMERICAN CHILDREN. — 1. Whenever a child is placed in a foster home **and the court has determined pursuant to subsection 3 of this section that foster home placement with relatives is not contrary to the best interest of the child**, the children's division [of family services] shall give [preference and first consideration for] foster home placement to relatives of the child. Notwithstanding any rule of the division to the contrary, grandparents who request consideration shall be given preference and first consideration for foster home placement.

2. As used in this section, the term "relative" means a person related to another by blood or affinity within the third degree. The status of a grandparent shall not be affected by the death or the dissolution of the marriage of a son or daughter.

3. The preference for placement with relatives created by this section shall only apply where the court finds that placement with such relatives is [in] **not contrary** to the best interest of the child considering all circumstances. **If the court finds that it is contrary to the best interest of a child to be placed with relatives, the court shall make specific findings on the record detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.**

4. The age of the child's relative shall not be the only factor that the children's division takes into consideration when it makes placement decisions and recommendations to the court about placing the child with such relative.

5. For any native American child placed in protective custody, the children's division shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

210.760. PLACEMENT IN FOSTER CARE — DIVISION'S DUTIES — REMOVAL OF CHILDREN FROM SCHOOL, RESTRICTIONS. — 1. In making placements in foster care the children's division [of family services] shall:

- (1) Arrange for a preplacement visit of the child, except in emergencies;
- (2) Provide full and accurate medical information and medical history to the persons providing foster care at the time of placement;
- (3) Give a minimum of five days advance notice to the persons providing foster care before removing a child from their care;
- (4) Provide the persons giving foster care with a written statement of the reasons for removing a child at the time of the notification required by this section; [and]
- (5) **Notify the child's parent or legal guardian that the child has been placed in foster care; and**
- (6) Work with the [natural] parent **or legal guardian of the child**, through services available, in an effort to return the child to his **or her** natural home, if at all possible, or to place the child in a permanent adoptive setting, in accordance with the division's goals to reduce the number of children in long-term foster care and reestablish and encourage the family unit.

2. Except as otherwise provided in section 210.125, no child shall be removed from school prior to the end of the official school day for that child for placement in foster care without a court order specifying that the child shall be removed from school.

210.762. FAMILY SUPPORT TEAM MEETINGS TO BE HELD, WHEN — WHO MAY ATTEND — FORM TO BE USED. — 1. When a child is taken into custody by a juvenile officer or law enforcement official under subdivision (1) of subsection 1 of section 211.031, RSMo, and initially placed with the division, the division may make a temporary placement and shall arrange for a family support team meeting prior to or within twenty-four hours following the protective custody hearing held under section 211.032, RSMo. After a child is in the division's custody and a temporary placement has been made, the division shall arrange an additional family support team meeting prior to taking any action relating to the placement of such child; except that, when the welfare of a child in the custody of the division requires an immediate or emergency change of placement, the division may make a temporary placement and shall schedule a family support team meeting within seventy-two hours.

2. The parents, the legal counsel for the parents, the foster parents, the legal guardian or custodian of the child, the guardian ad litem for the child, and the volunteer advocate, and any designee of the parent that has written authorization shall be notified and invited to participate in all family support team meetings. The family support team meeting may include such other persons whose attendance at the meeting may assist the team in making appropriate decisions in the best interests of the child. If the division finds that it is not in the best interest of a child to be placed with relatives, the division shall make specific findings in the division's report detailing the reasons why the best interests of the child necessitate placement of the child with persons other than relatives.

3. The division shall use the form created in subsection 2 of section 210.147 to be signed upon the conclusion of the meeting pursuant to subsection 1 of this section confirming that all involved parties are aware of the team's decision regarding the custody and placement of the child. Any dissenting views must be recorded and attested to on such form.

4. The case manager shall be responsible for including such form with the case records of the child.

210.764. CERTAIN CASE RECORDS AVAILABLE FOR REVIEW BY PARENTS OR GUARDIANS. — Except as provided in section 210.150, the case records of a child in protective custody compiled by the children's division shall be available for review by the parent or legal guardian of the child.

Approved June 29, 2004

SB 767 [SCS SB 767]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the portion of Interstate 44 within Webster County the Edwin P. Hubble Memorial Highway.

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the establishment of the Edwin P. Hubble Memorial highway.

SECTION

A. Enacting clause.

227.345. Edwin P. Hubble Memorial Highway designated for portion of Interstate 44 in Webster County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.345, to read as follows:

227.345. EDWIN P. HUBBLE MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 44 IN WEBSTER COUNTY. — The portion of Interstate 44, located in a county of the third classification without a township form of government and with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants shall be designated the "Edwin P. Hubble Memorial Highway".

Approved July 2, 2004

SB 769 [HCS SB 769]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes procedures for disincorporation of a road district in Jasper County.

AN ACT to repeal section 233.295, RSMo, and to enact in lieu thereof one new section relating to dissolution of certain road districts, with an emergency clause.

SECTION

- A. Enacting clause.
- 233.295. Dissolution of road district — petition — notice — disincorporation of district, petition, election, ballot form, certain counties, Christian, Jasper.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 233.295, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 233.295, to read as follows:

233.295. DISSOLUTION OF ROAD DISTRICT — PETITION — NOTICE — DISINCORPORATION OF DISTRICT, PETITION, ELECTION, BALLOT FORM, CERTAIN COUNTIES, CHRISTIAN, JASPER. — 1. Whenever a petition, signed by the owners of a majority of the acres of land, within a road district organized under the provisions of sections 233.170 to 233.315 shall be filed with the county commission of any county in which such district is situated, setting forth the name of the district and the number of acres owned by each signer of such petition and the whole number of acres in such district, the county commission shall have power, if in its opinion the public good will be thereby advanced, to disincorporate such road district. No such road district shall be disincorporated until notice is published in at least one newspaper of general circulation in the county where the district is situated for four weeks successively prior to the hearing of such petition.

2. In any county with a population of at least thirty-two thousand inhabitants which adjoins a county of the first classification which contains a city with a population of one hundred thousand or more inhabitants that adjoins no other county of the first classification, whenever a petition signed by at least fifty registered voters residing within the district organized under the provisions of sections 233.170 to 233.315 is filed with the county clerk of the county in which the district is situated, setting forth the name of the district and requesting the disincorporation of such district, the county clerk shall certify for election the following question to be voted upon by the eligible voters of the district:

Shall the..... incorporated road district organized under the provisions of sections 233.170 to 233.315, RSMo, be dissolved?

☐ YES ☐ NO

If a majority of the persons voting on the question are in favor of the proposition, then the county commission shall disincorporate the road district.

3. The petition filed pursuant to subsection 2 of this section shall be submitted to the clerk of the county no later than eight weeks prior to the next countywide election at which the question will be voted upon.

4. Notwithstanding other provisions of this section to the contrary, in any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants, any petition to disincorporate a road district organized under sections 233.170 to 233.315 shall be presented to the county commission or similar authority. The petition shall be signed by the lesser of fifty or a majority of the registered voters residing within the district, shall state the name of the district, and shall request the disincorporation of the district. If a petition is submitted as authorized in this section, and it is the opinion of the county commission that the public good will be advanced by the disincorporation after providing notice and a hearing as required in section 233.295, then the county commission shall disincorporate the road district. This subsection shall not apply to any road district located in two counties.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to provide fiscal relief to certain incorporated road districts, section A of this act is deemed necessary for

the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2004

SB 772 [SB 772]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain motor vehicles that stop to load or unload passengers to use flashing warning signals.

AN ACT to repeal section 307.100, RSMo, and to enact in lieu thereof one new section relating to flashing warning signals on certain motor vehicles.

SECTION

A. Enacting clause.

307.100. Limitations on lamps other than headlamps — flashing signals prohibited except on specified vehicles — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 307.100, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 307.100, to read as follows:

307.100. LIMITATIONS ON LAMPS OTHER THAN HEADLAMPS — FLASHING SIGNALS PROHIBITED EXCEPT ON SPECIFIED VEHICLES — PENALTY. — 1. Any lighted lamp or illuminating device upon a motor vehicle other than headlamps, spotlamps, front direction signals or auxiliary lamps which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle. Alternately flashing warning signals may be used on school buses when used for school purposes and on motor vehicles when used to transport United States mail from post offices to boxes of addressees thereof and on emergency vehicles as defined in section 304.022, RSMo, [and] on buses owned or operated by churches, mosques, synagogues, temples or other houses of worship, **and on commercial passenger transport vehicles or railroad passenger cars that are stopped to load or unload passengers**, but are prohibited on other motor vehicles, motorcycles and motor-drawn vehicles except as a means for indicating a right or left turn.

2. Notwithstanding the provisions of section 307.120, violation of this section is an infraction.

Approved June 25, 2004

SB 782 [HCS SCS SB 782]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to county treasurers.

AN ACT to repeal sections 50.339, 54.150, 54.170, and 54.261, RSMo, and to enact in lieu thereof five new sections relating to county treasurers.

SECTION

- A. Enacting clause.
- 50.339. Cole County and Cape Girardeau salary commission authorized to equalize salaries on a one-time basis.
- 54.033. County treasure vacancy caused by death, interim treasurer appointed, how.
- 54.150. Accounts settled with commission semiannually — death, interim treasurer appointed, how — duty of commission.
- 54.170. Settlement of county or township treasurer with the county commission for school moneys — vacancy caused by death, interim treasure appointed, how.
- 54.261. Compensation — training program, attendance required, when, expenses, compensation — vacancy, procedure (counties of the second, third and fourth classification and Clay County).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 50.339, 54.150, 54.170, and 54.261, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 50.339, 54.033, 54.150, 54.170, and 54.261, to read as follows:

50.339. COLE COUNTY AND CAPE GIRARDEAU SALARY COMMISSION AUTHORIZED TO EQUALIZE SALARIES ON A ONE-TIME BASIS. — **1.** In any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, the salary commission at its meeting in 2003 and at any meeting held in 2004 may equalize the base salary for each office to an amount not greater than that set by law as the maximum compensation. Nothing in this section shall be construed to prevent offices which have additional compensation specified in law from receiving such compensation or from having such compensation added to the base compensation in excess of the equalized salary.

2. Notwithstanding any provision of section 50.343 to the contrary, in any county of the first classification with more than sixty-eight thousand six hundred but less than sixty-eight thousand seven hundred inhabitants, the salary commission may meet in the year 2004 to determine whether to equalize the base salary for the office of treasurer with the base salaries of other county officers at an amount not greater than the amount set as the maximum compensation in subdivision (1) of subsection 1 of section 50.343.

54.033. COUNTY TREASURE VACANCY CAUSED BY DEATH, INTERIM TREASURER APPOINTED, HOW. — In the event of a vacancy caused by death, resignation, or otherwise, in the office of county treasurer in any county except a county with a charter form of government, the county commission shall appoint a deputy treasurer or a qualified person to serve as an interim treasurer until said treasurer returns or the unexpired term is filled under section 105.030, RSMo. Such individual must be eligible to serve as a county treasurer under section 54.040, and must comply with section 54.090.

54.150. ACCOUNTS SETTLED WITH COMMISSION SEMIANNUALLY — DEATH, INTERIM TREASURER APPOINTED, HOW — DUTY OF COMMISSION. — [He] The county treasurer shall settle his accounts with the commission semiannually, [at its first and third regular terms in each year; and at the end of his term, or if he resign or be removed from office, he, or if he die, his executor or administrator,] in June and December in each year. In the event of a vacancy caused by death, resignation, or otherwise, in any county except a county with a charter form of government, the county commission shall appoint a deputy treasurer or a qualified person to serve as an interim treasurer until said treasurer returns or the unexpired term is filled under section 105.030, RSMo. The treasurer or interim treasurer shall immediately make such settlement, and deliver to his successor in office all things pertaining thereto, together with all money belonging to the county; and at each settlement the

commission shall immediately proceed to ascertain, by actual examination [and count], the amount of balances and funds in the hands of such treasurer to be accounted for, and to what particular fund or funds it appertains, and cause to be spread on its records, in connection with the entry of such settlement, the result of such examination and count.

54.170. SETTLEMENT OF COUNTY OR TOWNSHIP TREASURER WITH THE COUNTY COMMISSION FOR SCHOOL MONEYS — VACANCY CAUSED BY DEATH, INTERIM TREASURER APPOINTED, HOW. — The county or township treasurer shall, semiannually, settle his accounts with the county commission [at its first and third regular terms in each year, being the regular February and August terms of said commission; and at the end of his term, or if he resign or be removed from office, he, or if he die, his executor or administrator, shall within twenty days, settle with the county commission, and if there be no term, or the commission be not in session, the presiding commissioner shall call a special term to make such settlement.] **in June and December. In the event of a vacancy caused by death, resignation, or otherwise, in any county except a county with a charter form of government, the county commission shall appoint a deputy treasurer or a qualified person to serve as the interim treasurer until said treasurer returns or unexpired term is filled pursuant to section 105.030, RSMo.** The [said] treasurer **or interim treasurer** shall account for all school moneys or funds of any and all kinds received by him, from whom and on what account, and the particular fund to which each of said funds was entered and charged, and the amount paid out for school purposes to the various districts of the county, and for any and all other purposes. The county commission shall [examine the vouchers, receipts, orders and warrants upon which each of such payments was made, and if satisfied that said payments are just and correct, shall] make an order attesting the same, which order shall be entered of record and shall be prima facie a discharge of the liability of said treasurer.

54.261. COMPENSATION — TRAINING PROGRAM, ATTENDANCE REQUIRED, WHEN, EXPENSES, COMPENSATION — VACANCY, PROCEDURE (COUNTIES OF THE SECOND, THIRD AND FOURTH CLASSIFICATION AND CLAY COUNTY). — 1. The county treasurer in counties of the first classification, not having a charter form of government and containing a portion of a city with a population of three hundred thousand or more, and in counties of the second, third and fourth classifications of this state, shall receive as compensation for services performed by the treasurer an annual salary based upon the assessed valuation of the county. The provisions of this section shall not permit or require a reduction, nor shall require an increase, in the amount of compensation being paid for the office of treasurer on January 1, 2002.

2. The amount of salary based upon assessed valuation shall be computed according to the following schedule:

Assessed Valuation	Salary
\$ 18,000,000 to 40,999,999	\$29,000
41,000,000 to 53,999,999	30,000
54,000,000 to 65,999,999	32,000
66,000,000 to 85,999,999	34,000
86,000,000 to 99,999,999	36,000
100,000,000 to 130,999,999	38,000
131,000,000 to 159,999,999	40,000
160,000,000 to 189,999,999	41,000
190,000,000 to 249,999,999	41,500
250,000,000 to 299,999,999	43,000
300,000,000 or more	45,000

3. Two thousand dollars of the salary authorized in this section shall be payable to the treasurer only if the treasurer has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the treasurer's office when approved by a professional

association of the county treasurers or county collectors of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each treasurer who completes the training program and shall send a list of certified treasurers to the county commission of each county. Expenses incurred for attending the training session may be reimbursed to the county treasurer in the same manner as other expenses as may be appropriated for that purpose.

4. The county treasurer in any county, other than a county of the first classification having a charter form of government or a county of the first classification not having a charter form of government and not containing any part of a city with a population of three hundred thousand or more, shall not, except upon two-thirds vote of all the members of the commission, receive an annual compensation in an amount less than the total compensation being received for the office of county treasurer in the particular county for services rendered or performed on the date the salary commission votes.

5. In the event of a vacancy **due to death, resignation, or otherwise** in the office of treasurer in any county except a county [of the first classification] with a charter form of government, **and** when there is no deputy treasurer, the county commission shall appoint a qualified acting treasurer until such time as the vacancy is filled by the governor pursuant to section 105.030, RSMo, **or the elected treasurer returns to work. The county commission shall employ and fix the compensation of clerical and other assistants necessary to enable the interim treasurer to efficiently perform the duties of the office.**

Approved June 25, 2004

SB 788 [SCS SB 788]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts persons operating fire equipment during nonemergency functions from possessing a CDL.

AN ACT to repeal sections 302.775, 304.022, and 307.175, RSMo, and to enact in lieu thereof three new sections relating to the operation of emergency vehicles, with an emergency clause.

SECTION

- A. Enacting clause.
- 302.775. Provisions of law not applicable, when.
- 304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
- 307.175. Sirens and flashing lights emergency use, persons authorized — violation, penalty.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 302.775, 304.022, and 307.175, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 302.775, 304.022, and 307.175, to read as follows:

302.775. PROVISIONS OF LAW NOT APPLICABLE, WHEN. — The provisions of sections 302.700 to 302.780 shall not apply to:

- (1) Any person driving a farm vehicle as defined in section 302.700;

(2) Any active duty military personnel, members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel on part-time training and national guard military technicians, while driving military vehicles for military purposes;

(3) Any person who drives emergency or fire equipment necessary to the preservation of life or property or the execution of emergency governmental functions under emergency conditions;

(4) **Any person qualified to operate the equipment under subdivision (3) of this section when operating such equipment in other functions such as parades, special events, repair, service or other authorized movements;**

(5) Any person driving or pulling a recreational vehicle, as defined in sections 301.010 and 700.010, RSMo, for personal use; and

[(5)] (6) Any other class of persons exempted by rule or regulation of the director, which rule or regulation is in compliance with the Commercial Motor Vehicle Safety Act of 1986 and any amendments or regulations drafted to that act.

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol or a state park ranger, those vehicles operated by enforcement personnel [by the division of motor carrier and railroad safety of the department of economic development] **of the state highways and transportation commission**, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44, RSMo;

(7) Any vehicle operated by an authorized employee of the department of corrections, who as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

5. (1) The driver of any vehicle referred to in subsection 4 of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire;

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to 304.026;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions;

(3) The exemptions [herein] granted to an emergency vehicle **pursuant to subdivision (2) of this subsection** shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

6. No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

7. Violation of this section shall be deemed a class C misdemeanor.

307.175. SIRENS AND FLASHING LIGHTS EMERGENCY USE, PERSONS AUTHORIZED — VIOLATION, PENALTY. — Motor vehicles and equipment which are operated by any member of an organized fire department, ambulance association, or rescue squad, whether paid or volunteer, may be operated on streets and highways in this state as an emergency vehicle under the provisions of section 304.022, RSMo, while responding to a fire call or ambulance call or at the scene of a fire call or ambulance call and while using or sounding a warning siren and [while] using or displaying thereon fixed, flashing or rotating blue lights, but sirens and blue lights shall be used only in bona fide emergencies. Permits for the operation of such vehicles equipped with sirens or blue lights shall be in writing and shall be issued and may be revoked by the chief of an organized fire department, organized ambulance association, or rescue squad and no person shall use or display a siren or blue lights on a motor vehicle, fire, ambulance, or rescue equipment without a valid permit authorizing the use. Permit to use a siren or lights as heretofore set out does not relieve the operator of the vehicle so equipped with complying with all other traffic laws and regulations. Violation of this section constitutes a class A misdemeanor.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the efficient operation of emergency vehicles, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 1, 2004

SB 807 [SB 807]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes special motion to dismiss actions seeking damages against a person for conduct or speech made in connection with a public hearing or meeting.

AN ACT to amend chapter 537, RSMo, by adding thereto one new section relating to civil actions.

SECTION

A. Enacting clause.

537.800. Actions for damages for conduct or speech at public hearings and meetings to be considered on expedited basis — procedural issues.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.800, to read as follows:

537.800. ACTIONS FOR DAMAGES FOR CONDUCT OR SPEECH AT PUBLIC HEARINGS AND MEETINGS TO BE CONSIDERED ON EXPEDITED BASIS — PROCEDURAL ISSUES. — 1. Any action seeking money damages against a person for conduct or speech undertaken or made in connection with a public hearing or public meeting, in a quasi-judicial proceeding before a tribunal or decision-making body of the state or any political subdivision of the state is subject to a special motion to dismiss, motion for judgment on the pleadings, or motion for summary judgment that shall be considered by the court on a priority or expedited basis to ensure the early consideration of the issues raised by the motion and to prevent the unnecessary expense of litigation. Upon the filing of any special motion described in this subsection, all discovery shall be suspended pending a decision on the motion by the court and the exhaustion of all appeals regarding the special motion.

2. If the rights afforded by this section are raised as an affirmative defense and if a court grants a motion to dismiss, a motion for judgment on the pleadings or a motion for summary judgment filed within ninety days of the filing of the moving party's answer, the court shall award reasonable attorney fees and costs incurred by the moving party in defending the action. If the court finds that a special motion to dismiss or motion for summary judgment is frivolous or solely intended to cause unnecessary delay, the court shall award costs and reasonable attorney fees to the party prevailing on the motion.

3. Any party shall have the right to an expedited appeal from a trial court order on the special motions described in subsection 2 of this section or from a trial court's failure to rule on the motion on an expedited basis.

4. As used in this section, a "public meeting in a quasi-judicial proceeding" means and includes any meeting established and held by a state or local governmental entity, including without limitations, meetings or presentations before state, county, city, town or village councils, planning commissions, review boards or commissions.

5. Nothing in this section limits or prohibits the exercise of a right or remedy of a party granted pursuant to another constitutional, statutory, common law or administrative provision, including civil actions for defamation.

6. If any provision of this section or the application of any provision of this section to a person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

7. The provisions of this section shall apply to all causes of actions.

Approved June 25, 2004

SB 810 [SCS SB 810]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Immunity from civil liability for certain landowners owning land adjoining public trails.

AN ACT to repeal section 258.100, RSMo, and to enact in lieu thereof one new section relating to immunity from civil liability for certain landowners.

SECTION

A. Enacting clause.

258.100. Trail, definition — immunity from civil liability for adjoining landowners, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 258.100, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 258.100, to read as follows:

258.100. TRAIL, DEFINITION — IMMUNITY FROM CIVIL LIABILITY FOR ADJOINING LANDOWNERS, WHEN. — 1. As used in this section, the word "trail" means any land [previously used as a railroad right-of-way] which was acquired **or utilized** by the state for use as a public hiking, biking or recreational trail or any land or interest therein acquired **or utilized** hereafter by a [municipality or county] **political subdivision** for use as a public hiking, biking or recreational trail[, located in any county of the first classification which contains a city with a population of one hundred thousand or more inhabitants which adjoins no other county of the first classification, or in a county of the first classification with a population of over nine hundred thousand]. However, a trail not acquired by the state must be designated by the governing body of the [municipality or county] **political subdivision** as a greenway system of trails **or part of a dedicated system of trails**, the acquisition [deed] **conveyance whether by deed, easement agreement, grant, assignment, or reservation of rights** to the [city or county] **political subdivision** must state the interest in the land is being granted for such purposes, the greenway system **or dedicated system** of trails must be designed exclusively for the purposes herein designated, and shall not include roads or streets, nor sidewalks, walkways or paths which are intended to connect neighborhoods for pedestrian traffic, such as common sidewalks or walkways.

2. Any person owning land adjoining the trail shall be immune from civil liability for injuries to person or property of persons trespassing or entering on such person's land without implied or expressed permission, invitation, or consent where:

- (1) The person who was injured entered the land by way of the trail; and
- (2) Such person was subsequently injured on lands adjoining the trail.

3. The immunity created by this section does not apply if the injuries were caused by:

- (1) The intentional or unlawful act of the owner or possessor of such land; or
- (2) The willful or wanton act of the owner or possessor of such land.

Approved June 22, 2004

SB 824 [HCS SB 824]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies law regarding the seizure of motor vehicles that have missing or illegible identification numbers.

AN ACT to repeal section 301.390, RSMo, and to enact in lieu thereof one new section relating to seizure of motor vehicles with altered or missing identification numbers, with penalty provisions.

SECTION

A. Enacting clause.

301.390. Possession and sale of vehicles and equipment with altered identification numbers prohibited, penalties — duty of officers — procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.390, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.390, to read as follows:

301.390. POSSESSION AND SALE OF VEHICLES AND EQUIPMENT WITH ALTERED IDENTIFICATION NUMBERS PROHIBITED, PENALTIES — DUTY OF OFFICERS — PROCEDURE.

— 1. No person shall sell, or offer for sale, or shall knowingly have the custody or possession of a motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment on which the original manufacturer's number or other distinguishing number has been destroyed, removed, covered, altered or defaced, and no person shall sell, offer for sale, or knowingly have the custody or possession of a motor vehicle or trailer having no manufacturer's number or other original number, or distinguishing number. Every motor vehicle and trailer shall have an original manufacturer's number or other distinguishing number assigned by the manufacturer.

2. Every peace officer who has **probable cause to believe and has** knowledge of a motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment, the number of which has been removed, covered, altered, destroyed or defaced, and for which no special number has been issued, shall **be authorized to** immediately seize and take possession of such motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment, and may arrest the supposed owner or custodian thereof and cause prosecution to be begun in a court of competent jurisdiction. [All property seized under this subsection shall immediately be placed in the custody of a court of competent jurisdiction.]

3. The [court] **law enforcement authority having seized it** shall retain custody of the motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment pending the prosecution of the person arrested[, and in case such person]. **If the person arrested should** be found guilty, such motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment shall [remain in] **be transferred to** the custody of the court until the fine and costs of prosecution [shall be] **are** paid. No property shall be released from the custody of the court until a special number shall have been issued by the director of revenue on an application of the supposed owner, approved by the court.

4. In case such fine and costs not be paid within thirty days from the date of judgment, the court shall advertise and sell such motor vehicle, boat, outboard motor, vehicle part, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment in the

manner provided by law for the sale of personal property under execution. The advertisement shall contain a description of the motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment and a copy thereof shall be mailed to the director of revenue. The proceeds of such sale shall be applied, first, to the payment of the fine and costs of the prosecution and sale, and any sum remaining shall be paid by the court to the owner, and the motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment shall not be delivered to the purchaser thereof until he shall first have secured a special number from the director of revenue, on the application of the purchaser, approved by the court.

5. If at any time while such motor vehicle, vehicle part, boat, outboard motor, trailer, motor vehicle tire, piece of farm machinery, farm implement, or piece of construction equipment remains in the custody of the court **or law enforcement authority having seized it**, the true owner thereof shall appear and [establish his title thereto] **prove** to the satisfaction of the court **or law enforcement authority proper ownership of and entitlement to said item**, [the same] **it** shall be returned to the owner after he has obtained from the director of revenue a special number, on application made by the owner.

6. Violation of any provision of this section is a class D felony.

Approved July 2, 2004

SB 842 [SB 842]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the expiration date of a lodging establishment license.

AN ACT to repeal section 315.015, RSMo, and to enact in lieu thereof one new section relating to licensing of lodging establishments, with an emergency clause.

SECTION

A. Enacting clause.

315.015. License fees — where deposited — notice of fee, issued when — license to be issued, when, displayed, where — revocation, grounds — expiration, when.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 315.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 315.015, to read as follows:

315.015. LICENSE FEES — WHERE DEPOSITED — NOTICE OF FEE, ISSUED WHEN — LICENSE TO BE ISSUED, WHEN, DISPLAYED, WHERE — REVOCATION, GROUNDS — EXPIRATION, WHEN. — 1. The license fee shall be fifty dollars for each lodging establishment, plus two dollars per guest room for each guest room above ten and through twenty, plus one dollar per guest room for each guest room above twenty.

2. After the lodging establishment has been inspected by the department and approved for licensing, notice of the license fee shall be issued to the owner. Upon subsequent payment of such fee, the director of the department of health and senior services shall issue a license which shall be kept properly framed and in a conspicuous place at the lodging establishment. The

department director may revoke the license as prescribed in subsection 1 of section 315.041, when the law or applicable code is not held in compliance.

3. Each license shall expire on the [thirty-first day of May] **thirtieth day of September** next following its issuance. All fees collected under the provisions of sections 315.005 to 315.065 shall be paid to the director of revenue and deposited by him in the state treasury to the credit of the general revenue fund.

SECTION B. EMERGENCY CLAUSE. — Because of the need to allow state inspections to proceed in a timely and efficient manner, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2004

SB 859 [SCS SB 859]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the Highway Patrol officers to hold positions as school board members.

AN ACT to repeal section 43.060, RSMo, and to enact in lieu thereof one new section relating to the state highway patrol.

SECTION

- A. Enacting clause.
43.060. Qualifications, patrol and radio personnel — limitations on activities, exceptions — school board membership permitted.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 43.060, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.060, to read as follows:

43.060. QUALIFICATIONS, PATROL AND RADIO PERSONNEL — LIMITATIONS ON ACTIVITIES, EXCEPTIONS — SCHOOL BOARD MEMBERSHIP PERMITTED. — 1. Patrolmen and radio personnel shall not be less than twenty-one years of age. No person shall be appointed as superintendent or member of the patrol or as a member of the radio personnel who has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime, nor shall any person be appointed who is not of good character or who is not a citizen of the United States and who at the time of appointment is not a citizen of the state of Missouri; or who is not a graduate of an accredited four-year high school or in lieu thereof has not obtained a certificate of equivalency from the state department of elementary and secondary education or other source recognized by that department, or who does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the superintendent prescribes.

2. **Except as provided in subsection 3 of this section,** no member of the patrol shall hold any other commission or office, elective or appointive, while a member of the patrol, except that the superintendent may authorize specified members to accept federal commissions providing investigative and arrest authority to enforce federal statutes while working with or at the direction

of a federal law enforcement agency. No member of the patrol shall accept any other employment, compensation, reward, or gift other than regular salary and expenses as herein provided except with the written permission of the superintendent. No member of the patrol shall perform any police duty connected with the conduct of any election, nor shall any member of the patrol at any time or in any manner electioneer for or against any party ticket, or any candidate for nomination or election to office on any party ticket, nor for or against any proposition of any kind or nature to be voted upon at any election.

3. Members of the patrol shall be permitted to be candidates for and members or directors of the school board in any school district where they meet the requirements for that position as set forth in chapter 162, RSMo. Members of the patrol who become school board directors or members within the state shall be permitted to receive benefits or compensation for their service to the school board as provided by chapter 162, RSMo.

Approved June 21, 2004

SB 870 [HS HCS SB 870]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits locating sexually-oriented billboards within one mile of a state highway.

AN ACT to amend chapter 226, RSMo, by adding thereto two new sections relating to sexually-oriented billboards, with penalty provisions.

SECTION

A. Enacting clause.

226.531. Definitions — sexually oriented billboards prohibited, when — existing billboards to be conforming, when — violation, penalty.

1. Attorney general to represent the state in certain actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 226, RSMo, is amended by adding thereto two new sections, to be known as section 226.531 and 1, to read as follows:

226.531. DEFINITIONS — SEXUALLY ORIENTED BILLBOARDS PROHIBITED, WHEN — EXISTING BILLBOARDS TO BE CONFORMING, WHEN — VIOLATION, PENALTY. — 1. As used in this section the following terms, mean:

(1) "Adult cabaret", a nightclub, bar, restaurant, or similar establishment in which persons appear in a state of nudity, as defined in section 573.500, RSMo, or semi-nudity, in the performance of their duties;

(2) "Semi-nudity", a state of dress in which opaque clothing fails to cover the genitals, anus, anal cleft or cleavage, pubic area, vulva, nipple and areola of the female breast below a horizontal line across the top of the areola at its highest point. Semi-nudity shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by wearing apparel provided the areola is not exposed in whole or part;

(3) "Sexually-oriented business", any business which offers its patrons goods of which a substantial portion are sexually-oriented materials. Any business where more than ten percent of display space is used for sexually-oriented materials shall be presumed to be a sexually-oriented business;

(4) "Sexually-oriented materials", any textual, pictorial, or three dimensional material that depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors.

2. No billboard or other exterior advertising sign, for an adult cabaret or sexually-oriented business shall be located within one mile of any state highway except if such business is located within one mile of a state highway then the business may display a maximum of two exterior signs on the premises of the business, consisting of one identification sign and one sign solely giving notice that the premises are off limits to minors. The identification sign shall be no more than forty square feet in size and shall include no more than the following information: name, street address, telephone number, and operating hours of the business.

3. Signs existing at the time of the effective date of this section, which did not conform to the requirements of this section, may be allowed to continue as a nonconforming use, but should be made to conform within three years from August 28, 2004.

4. Any owner of such a business who violates the provisions of this section shall be guilty of a class C misdemeanor. Each week a violation of this section continues to exist shall constitute a separate offense.

5. This section is designed to protect the following public policy interests of this state, including but not limited to: to mitigate the adverse secondary effects of sexually oriented businesses, to improve traffic safety, to limit harm to minors, and to reduce prostitution, crime, juvenile delinquency, deterioration in property values, and lethargy in neighborhood improvement efforts.

SECTION 1. ATTORNEY GENERAL TO REPRESENT THE STATE IN CERTAIN ACTIONS. — The attorney general shall represent the state in all actions and proceedings arising from this section 573.510. Also, all costs incurred by the attorney general to defend or prosecute this section 573.510, including payment of all court costs, civil judgments and, if necessary, any attorneys fees, shall be paid from the general revenue fund.

Approved June 17, 2004

SB 878 [SCS SB 878]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Gas Corporations and Experimental Tariffs.

AN ACT to repeal section 393.310, RSMo, and to enact in lieu thereof one new section relating to gas corporations and experimental tariffs, with a termination date.

SECTION

A. Enacting clause.

393.310. Certain gas corporations to file set of experimental tariffs with PSC, minimum requirements — expiration date — extension of tariffs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 393.310, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.310, to read as follows:

393.310. CERTAIN GAS CORPORATIONS TO FILE SET OF EXPERIMENTAL TARIFFS WITH PSC, MINIMUM REQUIREMENTS — EXPIRATION DATE — EXTENSION OF TARIFFS. — 1. This section shall only apply to gas corporations as defined in section 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.

2. As used in this section, the following terms mean:

(1) "Aggregate", the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;

(2) "Commission", the Missouri public service commission; and

(3) "Eligible school entity" shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, RSMo, and shall also include, one year after July 11, 2002, and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.

3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.

4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

(1) Provide for the aggregate purchasing of natural gas supplies and pipeline transportation services on behalf of eligible school entities in accordance with aggregate purchasing contracts negotiated by and through a not-for-profit school association;

(2) Provide for the resale of such natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing of such gas supplies and transportation, plus all applicable distribution costs, plus an aggregation and balancing fee to be determined by the commission, not to exceed four-tenths of one cent per therm delivered during the first year; and

(3) Not require telemetry or special metering, except for individual school meters over one hundred thousand therms annually.

5. The commission may suspend the tariff as required pursuant to subsection 3 of this section for a period ending no later than November 1, 2002, and shall approve such tariffs upon finding that implementation of the aggregation program set forth in such tariffs will not have any negative financial impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue at least equal to all incremental costs caused by the experimental aggregation program. Except as may be mutually agreed by the gas corporation and eligible school entities and approved by the commission, such tariffs shall not require eligible school entities to be responsible for pipeline capacity charges for longer than is required by the gas corporation's tariff for large industrial or commercial basic transportation customers.

6. The commission shall treat the gas corporation's pipeline capacity costs for associated eligible school entities in the same manner as for large industrial or commercial basic transportation customers, which shall not be considered a negative financial impact on the gas corporation, its other customers, or local taxing authorities, and the commission may adopt by order such other procedures not inconsistent with this section which the commission determines are reasonable or necessary to administer the experimental program.

7. This section shall terminate June 30, [2005] **2007**.

8. Tariffs in effect as of August 28, 2004 shall be extended until the termination date set in subsection 7 of this section.

Approved June 25, 2004

SB 884 [CCS HCS SB 884]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Instructs the Revisor of Statutes to amend the statutes to reflect certain court decisions.

AN ACT to amend chapter 3, RSMo, by adding thereto one new section relating to the duties of the revisor of statutes.

SECTION

A. Enacting clause.

3.075. Statutes declared unconstitutional on procedural grounds, duties of the revisor.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 3, RSMo, is amended by adding thereto one new section, to be known as section 3.075, to read as follows:

3.075. STATUTES DECLARED UNCONSTITUTIONAL ON PROCEDURAL GROUNDS, DUTIES OF THE REVISOR. — **When the Missouri supreme court or a federal court with competent jurisdiction makes a final ruling that a bill enacted by the Missouri general assembly or a Missouri state statute or any portion of a Missouri state statute contained in a bill enacted by the Missouri general assembly is unconstitutional on procedural grounds, the Missouri revisor of statutes shall:**

(1) For a repealed statute or an amended statute contained in such bill, reprint the statute as it existed in the revised statutes of Missouri prior to the enactment of the bill that the court declared unconstitutional;

(2) For a new statute contained in such bill, remove the new statute from the revised statutes of Missouri, if necessary, and publish only a footnote calling attention to the ruling of the court explaining the reason for the removal of such statute from the revised statutes of Missouri.

Approved July 9, 2004

SB 899 [SB 899]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Amends the school bus inspection law to include the inspection of frames on school buses.

AN ACT to repeal section 307.375, RSMo, and to enact in lieu thereof one new section relating to inspection of school buses.

SECTION

A. Enacting clause.

307.375. Inspection of school buses — items covered — violations, when corrected, notice to patrol — spot checks authorized.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 307.375, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 307.375, to read as follows:

307.375. INSPECTION OF SCHOOL BUSES — ITEMS COVERED — VIOLATIONS, WHEN CORRECTED, NOTICE TO PATROL — SPOT CHECKS AUTHORIZED. — 1. The owner of every bus used to transport children to or from school in addition to any other inspection required by law shall submit the vehicle to an official inspection station, and obtain a certificate of inspection, sticker, seal or other device annually, but the inspection of the vehicle shall not be made more than sixty days prior to operating the vehicle during the school year. The inspection shall, in addition to the inspection of the mechanism and equipment required for all motor vehicles under the provisions of sections 307.350 to 307.390, include an inspection to ascertain that the following items are correctly fitted, adjusted, and in good working condition:

- (1) All mirrors, including crossview, inside, and outside;
- (2) The front and rear warning flashers;
- (3) The stop signal arm;
- (4) The crossing control arm on public school buses required to have them pursuant to section 304.050, RSMo;
- (5) The rear bumper to determine that it is flush with the bus so that hitching of rides cannot occur;
- (6) The exhaust tailpipe shall be flush with or may extend not more than two inches beyond the perimeter of the body or bumper;
- (7) The emergency doors and exits to determine them to be unlocked and easily opened as required;
- (8) The lettering and signing on the front, side and rear of the bus;
- (9) The service door;
- (10) The step treads;
- (11) The aisle mats or aisle runners;
- (12) The emergency equipment which shall include as a minimum, a first aid kit, flares or fuses, and a fire extinguisher;
- (13) The seats, including a determination that they are securely fastened to the floor;
- (14) The emergency door buzzer;
- (15) All hand hold grips;
- (16) The interior glazing of the bus.

2. In addition to the inspection required by subsection 1 of this section, the Missouri state highway patrol shall conduct an inspection after February first of each school year of all vehicles required to be marked as school buses under section 304.050, RSMo. This inspection shall be conducted by the Missouri highway patrol in cooperation with the department of elementary and secondary education and shall include, as a minimum, items in subsection 1 of this section and the following:

- (1) The driver seat belts;
- (2) The heating and defrosting systems;
- (3) The reflectors;
- (4) The bus steps;
- (5) The aisles;
- (6) The frame.**

3. If, upon inspection, conditions which violate the standards in subsection 2 of this section are found, the owner or operator shall have them corrected in ten days and notify the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent. If the defects or unsafe conditions found constitute an immediate danger, the bus shall not be used until corrections are made and the superintendent of the Missouri state highway patrol or those persons authorized by the superintendent are notified.

4. The Missouri highway patrol may inspect any school bus at any time and if such inspection reveals a deficiency affecting the safe operation of the bus, the provisions of subsection 3 of this section shall be applicable.

Approved June 25, 2004

SB 901 [SCS SB 901]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes jurisdiction over underground storage tanks from the Clean Water Commission.

AN ACT to repeal sections 260.370, 319.109, 319.125, 319.127, 319.139, RSMo, and section 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, and section 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, and to enact in lieu thereof six new sections relating to environmental control.

SECTION

- A. Enacting clause.
- 260.370. Duties and powers of commission — rules and regulations to be adopted, procedures — inspection fees, use of, refund, when — variances granted, when — joint committee for fee restructuring authorized.
- 319.109. Releases and corrective actions to be reported, standards — rules authorized.
- 319.125. Certificate denied or invalidated by department, procedure, grounds.
- 319.127. Violations, procedure — penalty, disposition.
- 319.137. Rules, authority to adopt federal rules or to provide more stringent rules, when — procedure to promulgate.
- 319.139. Administrative penalties, assessment, procedure — rules — payment, appeal — collection.
- 319.137. Rules, authority to adopt federal rules or to provide more stringent rules, when — procedure to promulgate.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 260.370, 319.109, 319.125, 319.127, 319.139, RSMo, and section 319.137 as enacted by house committee substitute for senate substitute for senate bill no. 3, eighty-eighth general assembly, first regular session, and section 319.137 as enacted by house bill no. 251, eighty-eighth general assembly, first regular session, are repealed and six new sections enacted in lieu thereof, to be known as sections 260.370, 319.109, 319.125, 319.127, 319.137, and 319.139, to read as follows:

260.370. DUTIES AND POWERS OF COMMISSION — RULES AND REGULATIONS TO BE ADOPTED, PROCEDURES — INSPECTION FEES, USE OF, REFUND, WHEN — VARIANCES GRANTED, WHEN — JOINT COMMITTEE FOR FEE RESTRUCTURING AUTHORIZED. — 1. Where proven technology is available and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall encourage that every effort is made to effectively treat, recycle, detoxify, incinerate or otherwise treat hazardous waste to be disposed of in the state of Missouri in order that such wastes are not disposed of in a manner which is hazardous to the public health and the environment. Where proven technology is available with respect to a specific hazardous waste and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall direct that disposal of the specific hazardous wastes using land filling as the primary method is prohibited.

2. The hazardous waste management commission shall, by rules and regulations, categorize hazardous waste by taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics. The commission shall by rules and regulations further establish within each category the wastes which may or may not be disposed of through alternative hazardous waste management technologies including, but not limited to, treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments, recycling, reuse and reduction. The commission shall specify, by rule and regulation, the frequency of inspection for each method

of hazardous waste management and for the different waste categories at hazardous waste management sites. The inspection may be daily when the hazardous waste management commission deems it necessary. The hazardous waste management commission shall specify, by rule, fees to be paid to the department by owners or operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous waste facility permit and who accept, on a commercial basis for remuneration, hazardous waste from off-site sources, but not including wastes generated by the same person at other sites located in Missouri or within a metropolitan statistical area located partially in Missouri and owned or operated by the same person and transferred to the hazardous waste facility, for treatment, storage or disposal, for inspections conducted by the department to determine compliance with sections 260.350 to 260.430 and the regulations promulgated thereunder. Funds derived from these inspection fees shall be used for the purpose of funding the inspection of hazardous waste facilities, as specified in subsection 3 of section 260.391. Such fees shall not exceed twelve thousand dollars per year per facility and the commission shall establish a graduated fee scale based on the volume of hazardous waste accepted with reduced fees for facilities accepting smaller volumes of hazardous waste. The department shall furnish, upon request, to the person, firm or corporation operating the hazardous waste facility a complete, full and detailed accounting of the cost of the department's inspections of the facility for the twelve-month period immediately preceding the request within forty-five days after receipt of the request. Failure to provide the accounting within forty-five days shall require the department to refund the inspection fee paid during the twelve-month-time period.

3. In addition to any other powers vested in it by law, the commission shall have the following powers:

(1) From time to time adopt, amend or repeal, after due notice and public hearing, standards, rules and regulations to implement, enforce and carry out the provisions of sections 260.350 to 260.430 and any required of this state by any federal hazardous waste management act and as the commission may deem necessary to provide for the safe management of hazardous wastes to protect the health of humans and the environment. In implementing this subsection, the commission shall consider the variations within this state in climate, geology, population density, quantities and types of hazardous wastes generated, availability of hazardous waste facilities and such other factors as may be relevant to the safe management of hazardous wastes. Within two years after September 28, 1977, the commission shall adopt rules and regulations including the following:

(a) Rules and regulations establishing criteria and a listing for the determination of whether any waste or combination of wastes is hazardous for the purposes of sections 260.350 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics;

(b) Rules and regulations for the storage, treatment and disposal of hazardous wastes;

(c) Rules and regulations for the transportation, containerization and labeling of hazardous wastes, which shall be consistent with those issued by the Missouri public service commission;

(d) Rules and regulations establishing standards for the issuance, modification, suspension, revocation or denial of such licenses and permits as are consistent with the purposes of sections 260.350 to 260.430;

(e) Rules and regulations establishing standards and procedures for the safe operation and maintenance of hazardous waste facilities in order to protect the health of humans and other living organisms;

(f) Rules and regulations listing those wastes or combinations of wastes, for which criteria have been established under paragraph (a) of this subdivision and which are not compatible and which may not be stored or disposed of together;

(g) Rules and regulations establishing procedures and requirements for the reporting of the generation, storage, transportation, treatment or disposal of hazardous wastes;

(2) Adopt and publish, after notice as required by the provisions of chapter 536, RSMo, pertaining to administrative rulemaking, and public hearing, a state hazardous waste management plan to provide for the safe and effective management of hazardous wastes within this state. This plan shall be adopted within two years after September 28, 1977, and revised at least once every five years thereafter;

(3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths and take testimony as the commission deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by any federal hazardous waste management act. Unless otherwise specified in sections 260.350 to 260.430, any of these powers may be exercised on behalf of the commission by any members thereof or a hearing officer designated by it;

(4) Grant individual variances in accordance with the provisions of sections 260.350 to 260.430;

(5) Make such orders as are necessary to implement, enforce and effectuate the powers, duties and purposes of sections 260.350 to 260.430.

4. No rule or portion of a rule promulgated under the authority of sections 260.350 to 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

5. To the extent there is a conflict concerning authority for risk-based remediation rules between this section and section 644.143, RSMo, or 644.026 (8), RSMo, this section shall prevail.

319.109. RELEASES AND CORRECTIVE ACTIONS TO BE REPORTED, STANDARDS — RULES AUTHORIZED. — The department shall establish requirements for the reporting of any releases and corrective action taken in response to a release from an underground storage tank, including the specific quantity of a regulated substance, which if released, requires reporting and corrective action. In so doing, the department shall use risk-based corrective standards which take into account the level of risk to public health and the environment associated with site-specific conditions and future land usage. **The hazardous waste management commission is authorized to promulgate rules to implement this section, in accordance with section 319.137, RSMo. To the extent there is a conflict between this section and section 644.143, RSMo, or 644.026, RSMo, this section shall prevail.**

319.125. CERTIFICATE DENIED OR INVALIDATED BY DEPARTMENT, PROCEDURE, GROUNDS. — 1. The department may deny or invalidate a certificate of registration issued under sections 319.120 and 319.123 if the department finds, after notice and a hearing pursuant to chapter [644] **260**, RSMo, that the owner has:

(1) Fraudulently or deceptively registered or attempted to register a tank; or

(2) Failed at any time to comply with any provision or requirement of sections 319.100 to 319.137 or any rules and regulations adopted by the department in accordance with the provisions of sections 319.100 to 319.137.

2. Upon the action of the department to invalidate or refuse to issue a certificate, the department shall advise the applicant of his right to have a hearing before the [clean water] **hazardous waste management** commission. The hearing shall be conducted in accordance with the procedures established in chapter [644] **260**, RSMo.

3. When the department finds that a release from an underground storage tank presents, or is likely to present, an immediate threat to public health or safety or to the environment, it shall order correction of the problem, order cleanup or institute clean-up operations pursuant to the provisions of sections 260.500 to 260.550, RSMo.

4. If the owner or operator fails to perform or improperly performs any action required by the department to abate or eliminate an immediate threat to public health or safety or to the environment, the department or an authorized agent of the department may take any and all

necessary action to abate or eliminate such threat. In addition to any other remedy or penalty provided by sections 319.100 to 319.137 or any other law, the owner or operator shall be held strictly liable for the reasonable costs incurred by the department in taking any such action.

5. The denial of reregistration or the revocation of registration of any person participating in the underground storage tank insurance fund shall, upon completion of any appeal, terminate participation in the fund.

319.127. VIOLATIONS, PROCEDURE — PENALTY, DISPOSITION. — 1. It is unlawful for any owner or operator to cause or permit any violations of sections 319.100 to 319.137, or any standard, rule or regulation, order or permit term or condition adopted or issued hereunder. Except as provided in this section, whenever on the basis of any information, the department determines that any person is in such violation, the department may issue an order requiring compliance within a reasonable specified time period, pursuant to chapter [644] **260**, RSMo, or the department may commence a civil action in a court of competent jurisdiction in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

2. If an owner or operator fails to comply with an order under this section within the time specified, the department may commence a civil action in a court of competent jurisdiction for injunctive relief to prevent any such violation or further violation or for the assessment of a civil penalty not to exceed ten thousand dollars for each day, or part thereof, the violation occurred or continues to occur, or both, as the court deems proper. A civil monetary penalty under this section shall not be assessed for a violation where an administrative penalty was assessed under section 319.139. The department may request either the attorney general or a prosecuting attorney to bring any action authorized in this section in the name of the people of the state of Missouri. Any offer of settlement to resolve a civil penalty under this section shall be in writing, shall state that an action for imposition of a civil penalty may be initiated by the attorney general or a prosecuting attorney representing the department under authority of this section, and shall identify any dollar amount as an offer of settlement which shall be negotiated in good faith through conference, conciliation and persuasion.

3. Any penalty recovered pursuant to the provisions of this section shall be handled in accordance with section 7 of article IX of the state constitution.

4. If the department alleges a violation of law or regulation of sections 319.100 to 319.139, and mandates compliance with such law or regulation by a person or entity, the department shall provide the person or entity responsible for compliance with such law or regulation with written criteria detailing exactly what action is necessary for such person or entity to comply with the law or regulation. The criteria shall include any time restrictions imposed by the department and shall be prima facie evidence of the action necessary for compliance with the law or regulation. Any person or entity meeting the criteria shall be deemed to be in full compliance with the requests of the department and evidence of compliance shall constitute an affirmative defense in any action brought by or on behalf of the department under the law or regulation. The criteria may not be amended by the department once issued to the person or entity responsible for compliance with such law or department regulation for three years from the date of issuance unless mandated by a change in state or federal law.

319.137. RULES, AUTHORITY TO ADOPT FEDERAL RULES OR TO PROVIDE MORE STRINGENT RULES, WHEN — PROCEDURE TO PROMULGATE. — 1. Rules and regulations promulgated by the United States Environmental Protection Agency under subtitle I of the federal Resource Conservation Recovery Act of 1976 (P.L. 94-580), as amended, may be adopted by the department by reference. The department may adopt rules and regulations that are more stringent than those issued by the United States Environmental Protection Agency if such rules or regulations are necessary to protect human health or the environment. Rules and regulations promulgated under sections 319.100 to 319.139 shall be submitted to and reviewed by the advisory committee established by subsection 2 of section 319.131 prior to publication.

Any such rule, **except those promulgated by the petroleum storage tank insurance fund board of trustees**, shall be adopted only after due notice and public hearing in accordance with the provisions of this section, **chapter 260, RSMo, and chapter 536, RSMo**, and chapter 644, RSMo].

2. No rule or portion of a rule promulgated under the authority of sections 319.100 to 319.139 shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

- (1) An absence of statutory authority for the proposed rule;
- (2) An emergency relating to public health, safety or welfare;
- (3) The proposed rule is in conflict with state law;
- (4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based;
- (5) That the rule is arbitrary and capricious.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

319.139. ADMINISTRATIVE PENALTIES, ASSESSMENT, PROCEDURE — RULES — PAYMENT, APPEAL — COLLECTION. — 1. In addition to any other remedy provided by law, upon a determination by the director that a provision of sections 319.100 to 319.137 or a standard, limitation, order, rule or regulation promulgated pursuant thereto, or a term or condition of any permit has been violated, the director may issue an order assessing an administrative penalty upon the violator under this section. An administrative penalty shall not be imposed until the director has sought to resolve the violation through conference, conciliation or persuasion

and shall not be imposed for minor violations of sections 319.100 to 319.137 or minor violations of any standard, limitation, order, rule or regulation promulgated pursuant to sections 319.100 to 319.137 or minor violations of any term or condition of a permit issued pursuant to sections 319.100 to 319.137. If the violation is resolved through conference, conciliation and persuasion, no administrative penalty shall be assessed unless the violation has caused, or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. Any order assessing an administrative penalty shall state that an administrative penalty is being assessed under this section and that the person subject to the penalty may appeal as provided by this section. Any such order that fails to state the statute under which the penalty is being sought, the manner of collection or rights of appeal shall result in the state's waiving any right to collection of the penalty.

2. The [clean water] **hazardous waste management** commission shall promulgate rules and regulations for the assessment of administrative penalties. The amount of the administrative penalty assessed per day of violation for each violation under this section shall not exceed the amount of the civil penalty specified in section 319.127. Such rules shall reflect the criteria used for the administrative penalty matrix as provided for in the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a), Section 3008(a), and the harm or potential harm which the violation causes, or may cause, the violator's previous compliance record, and any other factors which the [clean water] **hazardous waste management** commission may reasonably deem relevant. An administrative penalty shall be paid within sixty days from the date of issuance of the order assessing the penalty. Any person subject to an administrative penalty may appeal to the commission as provided in section [644.056] **260.400**, RSMo. An appeal will stay the due date of such administrative penalty until the appeal is resolved. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for a surcharge of fifteen percent of the penalty plus ten percent per annum on any amounts owed. Any administrative penalty paid pursuant to this section shall be handled in accordance with section 7 of article IX of the state constitution. An action may be brought in the appropriate circuit court to collect any unpaid administrative penalty, and for attorney's fees and costs incurred directly in the collection thereof.

3. An administrative penalty shall not be increased in those instances where department action, or failure to act, has caused a continuation of the violation that was a basis for the penalty. Any administrative penalty must be assessed within two years following the department's initial discovery of such alleged violation, or from the date the department in the exercise of ordinary diligence should have discovered such alleged violation.

4. Any final order imposing an administrative penalty is subject to judicial review upon the filing of a petition pursuant to section 536.100, RSMo, by any person subject to the administrative penalty.

5. The state may elect to assess an administrative penalty, or, in lieu thereof, to request that the attorney general or prosecutor file an appropriate legal action seeking a civil penalty in the appropriate circuit court.

[319.137. RULES, AUTHORITY TO ADOPT FEDERAL RULES OR TO PROVIDE MORE STRINGENT RULES, WHEN — PROCEDURE TO PROMULGATE. — Rules and regulations promulgated by the United States Environmental Protection Agency under subtitle I of the federal Resource Conservation Recovery Act of 1976 (P.L. 94-580), as amended, may be adopted by the department by reference. The department may adopt rules and regulations that are more stringent than those issued by the United States Environmental Protection Agency if such rules or regulations are necessary to protect human health or the environment. Any such rule shall be adopted only after due notice and public hearing in accordance with the provisions of this section, chapter 536, RSMo, and chapter 644, RSMo. No rule or portion of a rule

promulgated under the authority of sections 319.100 to 319.139 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

Approved June 22, 2004

SB 920 [SB 920]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes various changes to the power and authority of the State Water Patrol.

AN ACT to repeal sections 306.165, 306.167, and 542.261, RSMo, and to enact in lieu thereof four new sections relating to the Missouri state water patrol.

SECTION

A. Enacting clause.

306.165. Water patrol officer, powers, duties and jurisdiction of.

306.167. Powers of peace officer when working in cooperation with other law enforcement agency.

306.169. Search warrants, water patrol may request application for and serve, when.

542.261. Peace officer defined.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 306.165, 306.167, and 542.261, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 306.165, 306.167, 306.169, and 542.261, to read as follows:

306.165. WATER PATROL OFFICER, POWERS, DUTIES AND JURISDICTION OF. — Each water patrol officer appointed by the Missouri state water patrol and each of such other employees as may be designated by the patrol, before entering upon his or her duties, shall take and subscribe an oath of office to perform all duties faithfully and impartially, and shall be given a certificate of appointment, a copy of which shall be filed with the secretary of state, granting all the powers of a peace officer to enforce all laws of this state, upon all of the following:

(1) The waterways of this state bordering the lands set forth in subdivisions (2), (3), (4), and (5) of this section;

(2) All federal land, where not prohibited by federal law or regulation, and state land adjoining the waterways of this state;

(3) All land within three hundred feet of the areas in subdivision (2) of this section;

(4) All land adjoining and within six hundred feet of any waters impounded in areas not covered in subdivision (2) with a shoreline in excess of four miles;

(5) All land adjoining and within six hundred feet of the rivers and streams of this state;

(6) Any other jurisdictional area, pursuant to the provisions of section 306.167;

(7) **All premises leased or owned or under control of the Missouri state water patrol.**

Each water patrol officer may board any watercraft at any time, with probable cause, for the purpose of making any inspection necessary to determine compliance with the provisions of this chapter. Each water patrol officer may arrest on view and without a warrant any person he or she sees violating or who such patrol officer has reasonable grounds to believe has violated any law of this state, upon any water or land area subject to his or her jurisdiction as provided in this section **or may arrest anyone violating any law in his or her presence throughout the state.** **Each water patrol officer, while investigating an accident or crime that was originally**

committed within such patrol officer's jurisdiction, as set forth in this section, may arrest any person who he or she has probable cause to believe has committed such crime, even if the suspect is currently out of the water patrol's jurisdiction. Water patrol officers, if practicable, shall notify the sheriff or the police department prior to making an arrest within their respective county or city. Each water patrol officer shall[, within six months after receiving a certificate of appointment, satisfactorily complete a law enforcement training course including six hundred hours of actual instruction conducted by a duly constituted law enforcement agency or any other school approved pursuant to] **comply with the training and certification provisions of chapter 590, RSMo.**

306.167. POWERS OF PEACE OFFICER WHEN WORKING IN COOPERATION WITH OTHER LAW ENFORCEMENT AGENCY. — The uniformed members of the state water patrol, with the exception of radio personnel, shall have full power and authority[, except for vehicular traffic violations,] as now or hereafter vested by law in peace officers when working with and at the special request of the sheriff of any county, the chief park ranger of any first class county not having a charter form of government and containing a portion of a city with a population exceeding four hundred thousand inhabitants, the chief of police of any city, or the superintendent of the state highway patrol as directed by the commissioner of the water patrol; provided, however, that such power and authority shall be exercised only upon the prior notification of the chief law enforcement officer of each jurisdiction.

306.169. SEARCH WARRANTS, WATER PATROL MAY REQUEST APPLICATION FOR AND SERVE, WHEN. — **In the investigation of an accident or crime that was originally committed within such patrol officer's jurisdiction, as set forth in section 306.165, the members of the water patrol may request that the prosecuting or circuit attorney apply for, and members of the water patrol may serve, search warrants anywhere within the state of Missouri, provided the sheriff of the county in which the warrant is to be served, or his designee, shall be notified upon application by the applicant of the search warrant.**

542.261. PEACE OFFICER DEFINED. — As used in sections 542.261 to 542.296 and section 542.301, the term "peace officer" means a police officer, member of the highway patrol **or water patrol** to the extent otherwise permitted by law to conduct searches, sheriff or deputy sheriff.

Approved June 17, 2004

SB 921 [SCS SB 921]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes that review hearings to place offenders in administrative segregation are not contested cases.

AN ACT to repeal section 217.375, RSMo, and to enact in lieu thereof one new section relating to administrative segregation of offenders, with an emergency clause.

SECTION

- A. Enacting clause.
 - 217.375. Administrative segregation, grounds for — review hearing required — records to be kept — access to medical personnel.
 - B. Emergency clause.
-

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 217.375, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 217.375, to read as follows:

217.375. ADMINISTRATIVE SEGREGATION, GROUNDS FOR — REVIEW HEARING REQUIRED — RECORDS TO BE KEPT — ACCESS TO MEDICAL PERSONNEL. — 1. When an offender is an immediate security risk, or an offender is violent, struggling and creating sufficient disturbance to indicate he is not in control of himself, or an offender is physically violent, or an offender is in urgent need to be separated from others for his own safety or that of others, or for the security and good order of the correctional facility, the chief administrative officer of the correctional facility or his designee may immediately place the offender in an administrative segregation unit which shall be situated so that the segregation of such offender from the other offenders of the correctional facility is complete. A review hearing shall be held concerning the incident within five working days.

2. A review hearing shall be held for each offender detained in administrative segregation thirty days after the initial period of confinement and every ninety days thereafter. The chief administrative officer of the facility shall keep records of the names of all those offenders confined to administrative segregation, the reason for such confinement, the length of time confined in administrative segregation and any other information required by his division director.

3. Offenders held in administrative segregation shall have access to medical personnel.

4. A review hearing pursuant to this section is not a contested case pursuant to the provisions of chapter 536, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure inmates are accorded the proper review standard for administrative segregation hearings, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 2, 2004

SB 942 [HCS SCS SBs 942, 850 & 841]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the conveyance of various parcels of state land.

AN ACT to authorize the governor to convey certain tracts of state property, with an emergency clause for certain sections.

SECTION

1. Governor authorized to convey National Guard Armory Building located in Pierce City.
2. Governor authorized to convey National Guard Armory Building located in city of Salem.
3. Governor authorized to convey National Guard parking lot located in city of Salem.
4. Governor authorized to convey National Guard Armory Building located in city of Neosho.
5. Governor authorized to convey certain state property located in city of Joplin.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY NATIONAL GUARD ARMORY BUILDING LOCATED IN PIERCE CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state in the county of Lawrence known as the National Guard Armory Building in the county of Lawrence to Pierce City. The property to be conveyed is more particularly described as follows:

ALL LOTS NUMBERED TWELVE (12), THIRTEEN (13), FOURTEEN (14) AND FIFTEEN (15) IN BLOCK NUMBERED TWENTY (20) OF THE ORIGINAL SURVEY OF THE CITY OF PIERCE CITY, (OR PIERCE CITY), MISSOURI.

2. Consideration for the conveyance described in subsection 1 of this section shall be for the sum of one dollar.

3. The attorney general shall approve as to the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY NATIONAL GUARD ARMORY BUILDING LOCATED IN CITY OF SALEM. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey to the city of Salem all interest in fee simple absolute in property owned by the state in the county of Dent, known as the National Guard Armory Building, in the city of Salem. The property to be conveyed is more particularly described as follows:

All that part of the Southeast quarter of the Northwest quarter of Section Thirteen (13), Township Thirty four (34) North, Range Six (6) West, described as follows: Beginning at a point on the north right of way line of State Highway "J" that is 438.5 feet east of the west line of said Southeast quarter of the Northwest quarter, thence north 387 feet, thence east 225 feet, thence south 387 feet, more or less, to the north right of way line of State Highway "J" to the place of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems responsible. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale. Consideration for the conveyance described in subsection 1 of this section shall be for the sum of five dollars.

3. The attorney general shall approve as to the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY NATIONAL GUARD PARKING LOT LOCATED IN CITY OF SALEM. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey to the city of Salem all interest in fee simple absolute in property owned by the state in the county of Dent, now used as a parking lot for the motor vehicles of the National Guard, in the city of Salem. The property to be conveyed is more particularly described as follows:

A part of the Northeast Quarter of the Southwest Quarter of Section 13, Township 34 North, Range 6 West, described as follows: Beginning at a point on the North line of said forty which is 260 feet East of the Northwest corner thereof; thence South 340 feet to the North property line of land conveyed to Housing Authority of the City of Salem, Missouri; thence East 400 feet; thence North 80 feet; thence West 50 feet; thence North 260 feet to the North line of said forty; thence west to the place of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale. Consideration for the conveyance shall be the sum of five dollars.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO CONVEY NATIONAL GUARD ARMORY BUILDING LOCATED IN CITY OF NEOSHO. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state in the county of Newton known as the National Guard Armory Building in Neosho to the City of Neosho. The property to be conveyed is more particularly described as follows:

All that part of the North half of Lot Two (2) of the Southwest fractional quarter of Section Nineteen (19) Township Twenty-five (25) Range Thirty-one (31) described as beginning at a point where the North line of Brook street in Neosho, Mo. intersects the West line of Jefferson Street in said City, said point being fifty (50) feet North of the Northeast corner of Block Seven (7) of McCord's Addition to Neosho, Mo., and running thence North one hundred and nineteen (119) feet to the Southeast corner of a tract of land now owned and occupied by A.W. Fullerton, thence West one hundred and sixty (160) feet more or less, to a point fifty (50) feet South of a point one hundred and ninety (190) feet South of a point on the North line of the Southwest fractional quarter of Section Nineteen (19) eight hundred and ninety-seven (897) feet East of the Northwest corner thereof, thence South one hundred and nineteen (119) feet to the North line of Brook Street in Neosho, Mo., thence East one hundred and sixty (160) feet more or less to the place of beginning. It is understood and agreed that the Clyde Burdick Post No. 163 of the American Legion at Neosho, Mo. shall have perpetual easement in the use of the building, and, or, of any building to be constructed on the above premises, and the use of said premises, so long as such does not conflict with the interest of the above grantee in using said building and premises as an armory.

2. The deed shall establish a perpetual easement for the benefit of the Clyde Burdick Post No. 163 of the American Legion at Neosho, Missouri, in the use of the building, and, or, of any building to be constructed on the premises, and the use of the premises, so long as such does not conflict with the interest of the grantee in using said building and premises while owned by a public governmental body.

3. Consideration for the conveyance described in subsection 1 of this section shall be for the sum of one dollar.

4. The attorney general shall approve as to the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO CONVEY CERTAIN STATE PROPERTY LOCATED IN CITY OF JOPLIN. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in the county of Newton to the city of Joplin. The property to be conveyed is more particularly described as follows:

Part of the Northeast Quarter of Section 21, Township 27, Range 33, City of Joplin, Newton County, Missouri, described as follows:

Commencing at the Northwest corner of the Northeast Quarter of said Section 21; thence South 01 degrees, 42 minutes, 35 seconds West along the west line of said Northeast Quarter 50.01 feet; thence South 89 degrees, 36 minutes, 28 seconds East and parallel with the North line of said Northeast Quarter 1404.01 feet to the Point of Beginning; thence South 01 degrees, 42 minutes, 35 seconds West 500.0 feet; thence South 89 degrees, 36 minutes, 28 seconds East 8.88 feet; thence North to the Point of Beginning and containing 2,220 square feet, more or less.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because of the devastation caused by the May 4, 2003, tornadoes and the need to rebuild this devastated community by allowing the transfer of property to enhance the city's ability to function as an effective political subdivision and immediate action is necessary to maintain an existing facility which includes a telecommunications resource center and to allow for use of the building for summer youth activities, sections 1 and 2 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 1 and 2 of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2004

SB 945 [HCS SCS SB 945 AND SB 803 AND SB 1257]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Directs the State Board of Education to assist and encourage school districts in adopting service-learning programs.

AN ACT to repeal sections 160.261, 210.145, and 211.031, RSMo, and to enact in lieu thereof four new sections relating to school-age children, with penalty provisions and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — additional restrictions for certain suspensions — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.
- 170.037. Adoption of service-learning programs and projects encouraged — state board of education to provide assistance, when.
- 210.145. Telephone hotline for reports on child abuse — division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception — chief investigator named — family support team meetings, who may attend — reporter's right to receive information — admissibility of reports in custody cases.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.261, 210.145, and 211.031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 160.261, 170.037, 210.145, and 211.031, RSMo, to read as follows:

160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — ADDITIONAL RESTRICTIONS FOR CERTAIN SUSPENSIONS — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION — NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy

and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to teachers and other school district employees with a need to know. For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following felonies, or any act which if committed by an adult would be one of the following felonies:

- (1) First degree murder under section 565.020, RSMo;
- (2) Second degree murder under section 565.021, RSMo;
- (3) Kidnapping under section 565.110, RSMo;
- (4) First degree assault under section 565.050, RSMo;
- (5) Forcible rape under section 566.030, RSMo;
- (6) Forcible sodomy under section 566.060, RSMo;
- (7) Burglary in the first degree under section 569.160, RSMo;
- (8) Burglary in the second degree under section 569.170, RSMo;
- (9) Robbery in the first degree under section 569.020, RSMo;
- (10) Distribution of drugs under section 195.211, RSMo;
- (11) Distribution of drugs to a minor under section 195.212, RSMo;
- (12) Arson in the first degree under section 569.040, RSMo;
- (13) Voluntary manslaughter under section 565.023, RSMo;
- (14) Involuntary manslaughter under section 565.024, RSMo;
- (15) Second degree assault under section 565.060, RSMo;
- (16) Sexual assault under section 566.040, RSMo;
- (17) Felonious restraint under section 565.120, RSMo;
- (18) Property damage in the first degree under section 569.100, RSMo;
- (19) The possession of a weapon under chapter 571, RSMo;
- (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
- (23) Sexual abuse pursuant to section 566.100, RSMo;

committed on school property, including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent, or in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

4. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

5. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

6. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policy of discipline developed by each board under this section, or when reporting to his or her supervisor or other person as mandated by state law, acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

7. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. Acts of violence as defined by school boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020, RSMo, to any school district in which the student subsequently attempts to enroll.

8. Spanking, when administered by certificated personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to any spanking administered in a reasonable manner by any certificated school personnel pursuant to a written policy of discipline established by the board of education of the school district. Upon receipt of any reports of child abuse by the division of family services pursuant to sections 210.110 to 210.165, RSMo, which allegedly involves personnel of a school district, the division of family services shall notify the superintendent of schools of the district or, if the person named in the

alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the division of family services and take no further action. In all matters referred back to the division of family services, the division of family services shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee. The investigation shall begin no later than forty-eight hours after notification from the division of family services is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the division of family services. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

(2) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

9. The findings and conclusions of the school board shall be sent to the division of family services. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the division of family services' central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the

names of the parties allegedly involved shall not be entered into the central registry of the division of family services unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

10. Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

11. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

170.037. ADOPTION OF SERVICE-LEARNING PROGRAMS AND PROJECTS ENCOURAGED — STATE BOARD OF EDUCATION TO PROVIDE ASSISTANCE, WHEN. — 1. The state board of education shall encourage the adoption of service-learning programs and projects among school districts. As used in this section, the term "service-learning programs and projects" means a student-centered, research-based method of teaching and learning which engages students of all ages in solving problems and addressing issues in their school or greater community as part of the academic curriculum. As a result, service-learning fosters academic achievement, civic engagement, and character development.

2. Upon request of any school district that elects to implement service-learning programs or projects, the state board of education shall provide any assistance needed to districts in locating, leveraging, and utilizing alternative financial resources that will assist teachers desiring to receive training in developing and administering service-learning programs or projects.

3. Any local board of education that maintains a high school may include service-learning as part of any course contributing to the satisfaction of credits necessary for high school graduation and provide support for the use of service-learning as an instructional strategy at any grade level to address appropriate areas of current state educational standards for student knowledge and performance.

210.145. TELEPHONE HOTLINE FOR REPORTS ON CHILD ABUSE — DIVISION DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION CONDUCTED, WHEN, EXCEPTION — CHIEF INVESTIGATOR NAMED — FAMILY SUPPORT TEAM MEETINGS, WHO MAY ATTEND — REPORTER'S RIGHT TO RECEIVE INFORMATION — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1. The division shall establish and maintain an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. Upon receipt of a report, the division shall immediately communicate such report to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

3. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or

other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to commit any such crimes. The local office shall provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

4. The local office of the division shall cause an investigation or family assessment and services approach to be initiated immediately or no later than within twenty-four hours of receipt of the report from the division, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. The division shall not meet with the child [at the child's school or child-care facility] **in any school building or child care facility building where abuse of such child is alleged to have occurred**. When the child is reported absent from the residence, the location and the well-being of the child shall be verified.

5. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

6. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

7. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

8. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

9. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams

shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

10. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

11. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

12. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

13. A person required to report under section 210.115 to the division shall be informed by the division of his right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. A person required to report to the division pursuant to section 210.115 may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the mandated reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the mandated reporter within five days of the outcome of the investigation.

14. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However, nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made.

15. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

16. The division of family services is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is

alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product, **and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance;**

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the children of this state, the repeal and reenactment of section 210.145 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and

the repeal and reenactment of section 210.145 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 24, 2004

SB 951 [SB 951]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Eliminates the requirement that political subdivisions file a copy of their contracts with certain offices.

AN ACT to repeal section 70.300, RSMo, and to enact in lieu thereof one new section relating to contracts of political subdivisions.

SECTION

- A. Enacting clause.
- 70.300. Execution of contracts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 70.300, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 70.300, to read as follows:

70.300. EXECUTION OF CONTRACTS. — Whenever the contracting party is a political subdivision of this state, the execution of all contracts shall be authorized by a majority vote of the members of the governing body. Each contract shall be in writing [and a copy filed in the office of the secretary of state and in the office of the recorder of deeds in the county in which each contracting municipality or political subdivision is situated].

Approved June 25, 2004

SB 952 [SCS SB 952]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies and adds provisions relating to the salaries of certain Kansas City police officers.

AN ACT to repeal sections 84.510 and 84.560, RSMo, and to enact in lieu thereof two new sections relating to certain police officers.

SECTION

- A. Enacting clause.
- 84.510. Police officers and officials — appointment — compensation (Kansas City).
- 84.560. Police force — ranks (Kansas City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 84.510 and 84.560, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 84.510 and 84.560, to read as follows:

84.510. POLICE OFFICERS AND OFFICIALS — APPOINTMENT — COMPENSATION (KANSAS CITY). — 1. For the purpose of operation of the police department herein created, the chief of police, with the approval of the board, shall appoint such number of police department employees, including police officers and civilian employees as the chief of police from time to time deems necessary.

2. The base annual compensation of police officers shall be as follows for the several ranks:

(1) Lieutenant colonels, not to exceed five in number, at not less than seventy-one thousand nine hundred sixty-nine dollars, nor more than one hundred six thousand seven hundred sixty-four dollars per annum each;

(2) Majors at not less than sixty-four thousand six hundred seventy-one dollars, nor more than ninety-seven thousand four hundred four dollars per annum each;

(3) Captains at not less than fifty-nine thousand five hundred thirty-nine dollars, nor more than eighty-eight thousand eight hundred sixty dollars per annum each;

(4) Sergeants at not less than forty-eight thousand six hundred fifty-nine dollars, nor more than seventy-one thousand seven hundred forty eight dollars per annum each;

(5) **Master patrol officers at not less than fifty-six thousand three hundred four dollars, nor more than sixty-seven thousand five hundred sixty-three dollars per annum each;**

(6) **Master detectives at not less than fifty-six thousand three hundred four dollars, nor more than sixty-seven thousand five hundred sixty-three dollars per annum each;**

(7) Detectives, investigators, and police officers at not less than twenty-six thousand six hundred forty-three dollars, nor more than sixty-three thousand six hundred forty-eight dollars per annum each.

3. The board of police commissioners has the authority by resolution to effect a comprehensive pay schedule program to provide for step increases with separate pay rates within each rank, in the above-specified salary ranges from police officers through chief of police.

4. Officers assigned to wear civilian clothes in the performance of their regular duties may receive an additional [seventy-five] **one hundred fifty** dollars per month clothing allowance. Uniformed officers may receive [fifty] **seventy-five** dollars per month uniform maintenance allowance.

5. The chief of police, subject to the approval of the board, shall establish the total regular working hours for all police department employees, and the board has the power, upon recommendation of the chief, to pay additional compensation for all hours of service rendered in excess of the established regular working period, but the rate of overtime compensation shall not exceed one and one-half times the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given nor deductions made from payments for overtime for the purpose of retirement benefits.

6. The board of police commissioners, by majority affirmative vote, including the mayor, has the authority by resolution to authorize incentive pay in addition to the base compensation [of police officers and detectives below the rank of sergeant] as provided for in subsection 2 of this section, to be paid **police officers of any rank** who they determine are assigned duties which require an extraordinary degree of skill, technical knowledge and ability, or which are highly demanding or unusual. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

7. The board of police commissioners may effect programs to provide additional compensation for successful completion of academic work at an accredited college or university. No credit shall be given nor deductions made from these payments for the purpose of retirement benefits.

8. The additional pay increments provided in subsections 6 and 7 of this section shall not be considered a part of the base compensation of police officers **of any rank** and shall not exceed [five] **ten** percent of what the officer would otherwise be entitled to pursuant to subsections 2 and 3 of this section.

9. Not more than twenty-five percent of the officers in any rank [below the rank of sergeant] who are receiving the maximum rate of pay authorized by subsections 2 and 3 of this section may receive the additional pay increments authorized by subsections 6 and 7 of this section at any given time. However, any officer receiving a pay increment provided pursuant to the provisions of subsections 6 and 7 of this section shall not be deprived of such pay increment as a result of the limitations of this subsection.

84.560. POLICE FORCE — RANKS (KANSAS CITY). — For the purposes of sections 84.350 to 84.860 all police officers, not including civilian employees and other than the chief, shall be assigned one of the following ranks: Lieutenant colonel, major, captain, sergeant, **master patrol officer, master detective**, detective, **investigator**, or patrolman. Lieutenant colonels shall not exceed five in number, and other titles or designations for police officers may be used but they shall be equivalent in rank and salary to the ranks herein specified.

Approved July 2, 2004

SB 956 [SCS SB 956]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows persons operating animal-driven vehicles to use lanterns and reflective material during nighttime hours.

AN ACT to repeal sections 307.125 and 307.127, RSMo, and to enact in lieu thereof two new sections relating to operating animal-driven vehicles, with penalty provisions.

SECTION

- A. Enacting clause.
- 307.125. Animal-driven vehicles, lighting requirements — penalty — rulemaking authority.
- 307.127. Slow-moving equipment, emblem required on, when — emblem described — violation, penalty — alternative display, reflective material.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 307.125 and 307.127, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 307.125 and 307.127, to read as follows:

307.125. ANIMAL-DRIVEN VEHICLES, LIGHTING REQUIREMENTS — PENALTY — RULEMAKING AUTHORITY. — **1.** Any person who shall place or drive or cause to be placed or driven, upon or along any state or supplementary state highway of this state any animal-driven vehicle whatsoever, whether in motion or at rest, shall after sunset to one-half hour before sunrise have attached to every such vehicle at the rear thereof a red taillight or a red reflecting device of not less than three inches in diameter of effective area or its equivalent in area. When such device shall consist of reflecting buttons there shall be no less than seven of such buttons covering an area equal to a circle with a three-inch diameter. The total subtended effective angle of reflection of every such device shall be no less than sixty degrees and the spread and

efficiency of the reflected light shall be sufficient for the reflected light to be visible to the driver of any motor vehicle approaching such animal-drawn vehicle from the rear of a distance of not less than five hundred feet.

2. In addition, any person who operates any such animal-driven vehicle during the hours between sunset and one-half hour before sunrise shall have at least one light flashing at all times the vehicle is on any highway of this state. Such light or lights shall be amber in the front and red in the back and shall be placed on the left side of the vehicle at a height of no more than six feet from the ground and shall be visible from the front and the back of the vehicle at a distance of at least five hundred feet. Any person violating the provisions of this section shall be guilty of a class C misdemeanor.

3. Any person operating an animal-driven vehicle during the hours between sunset and one-half hour before sunrise may, in lieu of the requirements of subsection 2 of this section, use lamps or lanterns complying with the rules promulgated by the director of the department of public safety.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

307.127. SLOW-MOVING EQUIPMENT, EMBLEM REQUIRED ON, WHEN — EMBLEM DESCRIBED — VIOLATION, PENALTY — ALTERNATIVE DISPLAY, REFLECTIVE MATERIAL. —

1. No person shall operate on any public highway of this state any slow-moving vehicle or equipment after sunset to one-half hour before sunrise, any animal-drawn vehicle, or any other machinery, designed for use or normally operated at speeds less than twenty-five miles per hour, including all road construction or maintenance machinery except when engaged in actual construction or maintenance work either guarded by a flagman or clearly visible warning signs, which normally travels or is normally used at a speed of less than twenty-five miles per hour unless there is displayed on the rear thereof an emblem as described in, and displayed as provided in subsection 2 in this section. The requirement of such emblem shall be in addition to any lighting devices required by section 307.115.

2. The emblem required by subsection 1 of this section shall be of substantial construction, and shall be a basedown equilateral triangle of fluorescent yellow-orange film or equivalent quality paint with a base of not less than fourteen inches and an altitude of not less than twelve inches. Such triangle shall be bordered with reflective red strips having a minimum width of one and three-fourths inches, with the vertices of the overall triangle truncated such that the remaining altitude shall be a minimum of fourteen inches. Such emblem shall be mounted on the rear of such vehicle near the horizontal geometric center of the rearmost vehicle at a height of not less than four feet above the roadway, and shall be maintained in a clean, reflective condition. The provisions of this section shall not apply to any vehicle or equipment being operated on a gravel or dirt surfaced public highway.

3. Any person who shall violate the provisions of this section shall be guilty of an infraction.

4. No emblem shall be required on machinery or equipment pulled or attached to a farm tractor providing the machinery or equipment does not extend more than twelve feet to the rear of the tractor and permits a clear view of the emblem on the tractor by vehicles approaching from the rear.

5. Any person operating an animal-drawn vehicle on any public highway of this state may, in lieu of displaying the emblem required by subsections 1 and 2 of this section, equip

the animal-drawn vehicle with reflective material complying with rules and regulations promulgated by the director of the department of public safety. The reflective material shall be visible from a distance of not less than five hundred feet to the rear when illuminated by the lower beams of vehicle headlights. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

Approved June 25, 2004

SB 960 [HCS SS SCS SB 960]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to property tax assessment.

AN ACT to repeal sections 137.073, 137.115, and 137.720, RSMo, and to enact in lieu thereof five new sections relating to property tax reassessment, with an effective date and an expiration date for a certain section.

SECTION

- A. Enacting clause.
- 67.506. Computation of county sales tax levy.
- 137.073. Definitions — revision of prior levy, when, procedure — calculation of state aid for public schools, taxing authority's duties.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 137.720. Percentage of ad valorem property tax collections to be deducted for deposit in county assessment fund — additional deduction (St. Louis City, charter counties, and counties of the first classification).
 - 1. Effective date of the Missouri Homestead Preservation Act.
- B. Contingent effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 137.073, 137.115, and 137.720, are repealed and five new sections enacted in lieu thereof, to be know as sections 67.506, 137.073, 137.115, 137.720, and 1, to read as follows:

67.506. COMPUTATION OF COUNTY SALES TAX LEVY. — The tax rate for counties levying a sales tax under section 67.505 shall be computed by:

(1) Dividing the amount of the sales tax revenue required for reduction under subsection 3 of section 67.505 and section 163.087, RSMo, by the total assessed valuation of the county and multiplying by one hundred to determine the amount of property tax reduction; and

(2) Subtracting the property tax rate reduction in subdivision (1) of this section from the tax rate ceiling for each class of property or subclass of real property.

137.073. DEFINITIONS — REVISION OF PRIOR LEVY, WHEN, PROCEDURE — CALCULATION OF STATE AID FOR PUBLIC SCHOOLS, TAXING AUTHORITY'S DUTIES. — 1. As used in this section, the following terms mean:

(1) "General reassessment", changes in value, entered in the assessor's books, of a substantial portion of the parcels of real property within a county resulting wholly or partly from reappraisal of value or other actions of the assessor or county equalization body or ordered by the state tax commission or any court;

(2) "Tax rate", "rate", or "rate of levy", singular or plural, includes the tax rate for each purpose of taxation of property a taxing authority is authorized to levy without a vote and any tax rate authorized by election, including bond interest and sinking fund;

(3) "Tax rate ceiling", a tax rate as revised by the taxing authority to comply with the provisions of this section or when a court has determined the tax rate; except that, other provisions of law to the contrary notwithstanding, a school district may levy the operating levy for school purposes required for the current year pursuant to subsection 2 of section 163.021, RSMo, less all adjustments required pursuant to article X, section 22 of the Missouri Constitution, if such tax rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. This is the maximum tax rate that may be levied, unless a higher tax rate ceiling is approved by voters of the political subdivision as provided in this section;

(4) "Tax revenue", when referring to the previous year, means the actual receipts from ad valorem levies on all classes of property, including state-assessed property, in the immediately preceding fiscal year of the political subdivision, plus an allowance for taxes billed but not collected in the fiscal year and plus an additional allowance for the revenue which would have been collected from property which was annexed by such political subdivision but which was not previously used in determining tax revenue pursuant to this section. The term "tax revenue" shall not include any receipts from ad valorem levies on any property of a railroad corporation or a public utility, as these terms are defined in section 386.020, RSMo, which were assessed by the assessor of a county or city in the previous year but are assessed by the state tax commission in the current year. All school districts and those counties levying sales taxes pursuant to chapter 67, RSMo, shall include in the calculation of tax revenue an amount equivalent to that by which they reduced property tax levies as a result of sales tax pursuant to section 67.505, RSMo, and section 164.013, RSMo, in the immediately preceding fiscal year but not including any amount calculated to adjust for prior years. For purposes of political subdivisions which were authorized to levy a tax in the prior year but which did not levy such tax or levied a reduced rate, the term "tax revenue", as used in relation to the revision of tax levies mandated by law, shall mean the revenues equal to the amount that would have been available if the voluntary rate reduction had not been made.

2. Whenever changes in assessed valuation are entered in the assessor's books for any personal property, in the aggregate, or for any subclass of real property as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, the county clerk in all counties and the assessor of St. Louis City shall notify each political subdivision wholly or partially within the county or St. Louis City of the change in valuation of each subclass of real property, individually, and personal property, in the aggregate, exclusive of new construction and improvements. All political subdivisions shall immediately revise the applicable rates of levy for each purpose for each subclass of real property, individually, and personal property, in the aggregate, for which taxes are levied to the extent necessary to produce from all taxable property, exclusive of new construction and improvements, substantially the same amount of tax revenue as was produced in the previous year for each subclass of real property, individually, and personal property, in the aggregate, except that the rate may not exceed the greater of the rate in effect in the 1984 tax year or the most recent voter-approved rate. Such tax revenue shall not include any receipts from ad valorem levies on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real

property. Where the taxing authority is a school district for the purposes of revising the applicable rates of levy for each subclass of real property, the tax revenues from state-assessed railroad and utility property shall be apportioned and attributed to each subclass of real property based on the percentage of the total assessed valuation of the county that each subclass of real property represents in the current taxable year. As provided in section 22 of article X of the constitution, a political subdivision may also revise each levy to allow for inflationary assessment growth occurring within the political subdivision. The inflationary growth factor **for any such subclass or real property or personal property** shall be limited to the actual assessment growth in [the aggregate for the political subdivision] **such subclass or class**, exclusive of new construction and improvements, **and exclusive of the assessed value on any real property which was assessed by the assessor of a county or city in the current year in a different subclass of real property**, but not to exceed the consumer price index or five percent, whichever is lower. Should the tax revenue of a political subdivision from the various tax rates determined in this subsection be different than the tax revenue that would have been determined from a single tax rate as calculated pursuant to the method of calculation in this subsection prior to January 1, 2003, then the political subdivision shall revise the tax rates of those subclasses of real property, individually, and/or personal property, in the aggregate, in which there is a tax rate reduction, pursuant to the provisions of this subsection. Such revision shall yield an amount equal to such difference and shall be apportioned among such subclasses of real property, individually, and/or personal property, in the aggregate, [as per the relative tax rate reduction of such subclasses of real property, individually, and/or personal property, in the aggregate] **based on the relative assessed valuation of the class or subclasses of property experiencing a tax rate reduction. Such revision in the tax rates of each class or subclass shall be made by computing the percentage of current year adjusted assessed valuation of each class or subclass with a tax rate reduction to the total current year adjusted assessed valuation of the class or subclasses with a tax rate reduction, multiplying the resulting percentages by the revenue difference between the single rate calculation and the calculations pursuant to this subsection and dividing by the respective adjusted current year assessed valuation of each class or subclass to determine the adjustment to the rate to be levied upon each class or subclass of property. The adjustment computed herein shall be multiplied by one hundred, rounded to four decimals in the manner provided in this subsection, and added to the initial rate computed for each class or subclass of property. Notwithstanding any provision of this subsection to the contrary, no revision to the rate of levy for personal property shall cause such levy to increase over the levy for personal property from the prior year.**

3. (1) Where the taxing authority is a school district, it shall be required to revise the rates of levy to the extent necessary to produce from all taxable property, including state-assessed railroad and utility property, which shall be separately estimated in addition to other data required in complying with section 164.011, RSMo, substantially the amount of tax revenue permitted in this section. In the year following tax rate reduction, the tax rate ceiling may be adjusted to offset such district's reduction in the apportionment of state school moneys due to its reduced tax rate. However, in the event any school district, in calculating a tax rate ceiling pursuant to this section, requiring the estimating of effects of state-assessed railroad and utility valuation or loss of state aid, discovers that the estimates used result in receipt of excess revenues, which would have required a lower rate if the actual information had been known, the school district shall reduce the tax rate ceiling in the following year to compensate for the excess receipts, and the recalculated rate shall become the tax rate ceiling for purposes of this section.

(2) For any political subdivision which experiences a reduction in the amount of assessed valuation relating to a prior year, due to decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of any assessed valuation:

(a) Such political subdivision may revise the tax rate ceiling for each purpose it levies taxes to compensate for the reduction in assessed value occurring after the political subdivision calculated the tax rate ceiling for the particular subclass of real property or for personal property, in the aggregate, in the prior year. Such revision by the political subdivision shall be made at the time of the next calculation of the tax rate for the particular subclass of real property or for personal property, in the aggregate, after the reduction in assessed valuation has been determined and shall be calculated in a manner that results in the revised tax rate ceiling being the same as it would have been had the corrected or finalized assessment been available at the time of the prior calculation;

(b) In addition, for up to three years following the determination of the reduction in assessed valuation as a result of circumstances defined in this subdivision, such political subdivision may levy a tax rate for each purpose it levies taxes above the revised tax rate ceiling provided in paragraph (a) of this subdivision to recoup any revenues it was entitled to receive for the three-year period preceding such determination.

4. (1) In order to implement the provisions of this section and section 22 of article X of the Constitution of Missouri, the term "improvements" shall apply to both real and personal property. In order to determine the value of new construction and improvements, each county assessor shall maintain a record of real property valuations in such a manner as to identify each year the increase in valuation for each political subdivision in the county as a result of new construction and improvements. The value of new construction and improvements shall include the additional assessed value of all improvements or additions to real property which were begun after and were not part of the prior year's assessment, except that the additional assessed value of all improvements or additions to real property which had been totally or partially exempt from ad valorem taxes pursuant to sections 99.800 to 99.865, RSMo, sections 135.200 to 135.255, RSMo, and section 353.110, RSMo, shall be included in the value of new construction and improvements when the property becomes totally or partially subject to assessment and payment of all ad valorem taxes. The aggregate increase in valuation of personal property for the current year over that of the previous year is the equivalent of the new construction and improvements factor for personal property. **Notwithstanding any opt-out implemented pursuant to subsection 15 of section 137.115,** the assessor shall certify the amount of new construction and improvements **and the amount of assessed value on any real property which was assessed by the assessor of a county or city in such previous year but is assessed by the assessor of a county or city in the current year in a different subclass of real property separately for each of the three subclasses of real property** for each political subdivision to the county clerk in order that political subdivisions shall have this information for the purpose of calculating tax rates pursuant to this section and section 22, article X, Constitution of Missouri. In addition, the state tax commission shall certify each year to each county clerk the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as defined and officially reported by the United States Department of Labor, or its successor agency. The state tax commission shall certify the increase in such index on the latest twelve-month basis available on June first of each year over the immediately preceding prior twelve-month period in order that political subdivisions shall have this information available in setting their tax rates according to law and section 22 of article X of the Constitution of Missouri. For purposes of implementing the provisions of this section and section 22 of article X of the Missouri Constitution, the term "property" means all taxable property, including state assessed property.

(2) Each political subdivision required to revise rates of levy pursuant to this section or section 22 of article X of the Constitution of Missouri shall calculate each tax rate it is authorized to levy and, in establishing each tax rate, shall consider each provision for tax rate revision provided in this section and section 22 of article X of the Constitution of Missouri, separately and without regard to annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo. Each political subdivision shall set each tax rate it is authorized to levy using

the calculation that produces the lowest tax rate ceiling. It is further the intent of the general assembly, pursuant to the authority of section 10(c) of article X of the Constitution of Missouri, that the provisions of such section be applicable to tax rate revisions mandated pursuant to section 22 of article X of the Constitution of Missouri as to reestablishing tax rates as revised in subsequent years, enforcement provisions, and other provisions not in conflict with section 22 of article X of the Constitution of Missouri. Annual tax rate reductions provided in section 67.505, RSMo, and section 164.013, RSMo, shall be applied to the tax rate as established pursuant to this section and section 22 of article X of the Constitution of Missouri, unless otherwise provided by law.

5. (1) In all political subdivisions, the tax rate ceiling established pursuant to this section shall not be increased unless approved by a vote of the people. Approval of the higher tax rate shall be by at least a majority of votes cast. When a proposed higher tax rate requires approval by more than a simple majority pursuant to any provision of law or the constitution, the tax rate increase must receive approval by at least the majority required.

(2) When voters approve an increase in the tax rate, the amount of the increase shall be added to the tax rate ceiling as calculated pursuant to this section to the extent the total rate does not exceed any maximum rate prescribed by law. If a ballot question presents a stated tax rate for approval rather than describing the amount of increase in the question, the stated tax rate approved shall be the current tax rate ceiling. The increased tax rate ceiling as approved may be applied to the total assessed valuation of the political subdivision at the setting of the next tax rate.

(3) The governing body of any political subdivision may levy a tax rate lower than its tax rate ceiling and may increase that lowered tax rate to a level not exceeding the tax rate ceiling without voter approval.

[(4) In a year of general reassessment, a governing body whose tax rate is lower than its tax rate ceiling shall revise its tax rate pursuant to the provisions of subsection 4 of this section as if its tax rate were at the tax rate ceiling. In a year following general reassessment, if such governing body intends to increase its tax rate, the governing body shall conduct a public hearing, and in a public meeting it shall adopt an ordinance, resolution or policy statement justifying its action prior to setting and certifying its tax rate. The provisions of this subdivision shall not apply to a taxing jurisdiction which receives some portion of its funding pursuant to chapter 163, RSMo.]

6. (1) For the purposes of calculating state aid for public schools pursuant to section 163.031, RSMo, each taxing authority which is a school district shall determine its proposed tax rate as a blended rate of the classes or subclasses of property. Such blended rate shall be calculated by first determining the total tax revenue of the property within the jurisdiction of the taxing authority, which amount shall be equal to the sum of the products of multiplying the assessed valuation of each class and subclass of property by the corresponding tax rate for such class or subclass, then dividing the total tax revenue by the total assessed valuation of the same jurisdiction, and then multiplying the resulting quotient by a factor of one-hundred. Where the taxing authority is a school district, such blended rate shall also be used by such school district for calculating revenue from state-assessed railroad and utility property as defined in chapter 151, RSMo, and for apportioning the tax rate by purpose.

(2) Each taxing authority proposing to levy a tax rate in any year shall notify the clerk of the county commission in the county or counties where the tax rate applies of its tax rate ceiling and its proposed tax rate. Each taxing authority shall express its proposed tax rate in a fraction equal to the nearest one-tenth of a cent, unless its proposed tax rate is in excess of one dollar, then one/one-hundredth of a cent. If a taxing authority shall round to one/one-hundredth of a cent, it shall round up a fraction greater than or equal to five/one-thousandth of one cent to the next higher one/one-hundredth of a cent; if a taxing authority shall round to one-tenth of a cent, it shall round up a fraction greater than or equal to five/one-hundredths of a cent to the next higher one-tenth of a cent. Any taxing authority levying a property tax rate shall provide data,

in such form as shall be prescribed by the state auditor by rule, substantiating such tax rate complies with Missouri law. **All forms for the calculation of rates pursuant to this section shall be promulgated as a rule and shall not be incorporated by reference. Within thirty days after the effective date of this act, the state auditor shall promulgate rules for any and all forms for the calculation of rates pursuant to this section which do not currently exist in rule form or that have been incorporated by reference.** In addition, each taxing authority proposing to levy a tax rate for debt service shall provide data, in such form as shall be prescribed by the state auditor by rule, substantiating the tax rate for debt service complies with Missouri law. A tax rate proposed for annual debt service requirements will be prima facie valid if, after making the payment for which the tax was levied, bonds remain outstanding and the debt fund reserves do not exceed the following year's payments. The county clerk shall keep on file and available for public inspection all such information for a period of three years. The clerk shall, within three days of receipt, forward a copy of the notice of a taxing authority's tax rate ceiling and proposed tax rate and any substantiating data to the state auditor. The state auditor shall, within fifteen days of the date of receipt, examine such information and return to the county clerk his or her findings as to compliance of the tax rate ceiling with this section and as to compliance of any proposed tax rate for debt service with Missouri law. If the state auditor believes that a taxing authority's proposed tax rate does not comply with Missouri law, then the state auditor's findings shall include a recalculated tax rate, and the state auditor may request a taxing authority to submit documentation supporting such taxing authority's proposed tax rate. The county clerk shall immediately forward a copy of the auditor's findings to the taxing authority and shall file a copy of the findings with the information received from the taxing authority. The taxing authority shall have fifteen days from the date of receipt from the county clerk of the state auditor's findings and any request for supporting documentation to accept or reject in writing the rate change certified by the state auditor and to submit all requested information to the state auditor. A copy of the taxing authority's acceptance or rejection and any information submitted to the state auditor shall also be mailed to the county clerk. If a taxing authority rejects a rate change certified by the state auditor and the state auditor does not receive supporting information which justifies the taxing authority's original or any subsequent proposed tax rate, then the state auditor shall refer the perceived violations of such taxing authority to the attorney general's office and the attorney general is authorized to obtain injunctive relief to prevent the taxing authority from levying a violative tax rate.

7. No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section.

8. Whenever a taxpayer has cause to believe that a taxing authority has not complied with the provisions of this section, the taxpayer may make a formal complaint with the prosecuting attorney of the county. Where the prosecuting attorney fails to bring an action within ten days of the filing of the complaint, the taxpayer may bring a civil action pursuant to this section and institute an action as representative of a class of all taxpayers within a taxing authority if the class is so numerous that joinder of all members is impracticable, if there are questions of law or fact common to the class, if the claims or defenses of the representative parties are typical of the claims or defenses of the class, and if the representative parties will fairly and adequately protect the interests of the class. In any class action maintained pursuant to this section, the court may direct to the members of the class a notice to be published at least once each week for four consecutive weeks in a newspaper of general circulation published in the county where the civil action is commenced and in other counties within the jurisdiction of a taxing authority. The notice shall advise each member that the court will exclude him or her from the class if he or she so requests by a specified date, that the judgment, whether favorable or not, will include all members who do not request exclusion, and that any member who does not request exclusion may, if he or she desires, enter an appearance. In any class action brought pursuant to this section, the court, in addition to the relief requested, shall assess against the taxing authority found to be in violation of this section the reasonable costs of bringing the action, including

reasonable attorney's fees, provided no attorney's fees shall be awarded any attorney or association of attorneys who receive public funds from any source for their services. Any action brought pursuant to this section shall be set for hearing as soon as practicable after the cause is at issue.

9. If in any action, including a class action, the court issues an order requiring a taxing authority to revise the tax rates as provided in this section or enjoins a taxing authority from the collection of a tax because of its failure to revise the rate of levy as provided in this section, any taxpayer paying his or her taxes when an improper rate is applied has erroneously paid his or her taxes in part, whether or not the taxes are paid under protest as provided in section 139.031, RSMo. The part of the taxes paid erroneously is the difference in the amount produced by the original levy and the amount produced by the revised levy. The township or county collector of taxes or the collector of taxes in any city shall refund the amount of the tax erroneously paid. The taxing authority refusing to revise the rate of levy as provided in this section shall make available to the collector all funds necessary to make refunds pursuant to this subsection. No taxpayer shall receive any interest on any money erroneously paid by him or her pursuant to this subsection. Effective in the 1994 tax year, nothing in this section shall be construed to require a taxing authority to refund any tax erroneously paid prior to or during the third tax year preceding the current tax year.

10. A taxing authority, including but not limited to a township, county collector, or collector of taxes, responsible for determining and collecting the amount of residential real property tax levied in its jurisdiction, shall report such amount of tax collected by December thirty-first of each year such property is assessed to the state tax commission. The state tax commission shall compile the tax data by county or taxing jurisdiction and submit a report to the general assembly no later than January thirty-first of the following year.

11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered

year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this paragraph, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percents of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed

and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

- (1) For real property in subclass (1), nineteen percent;
- (2) For real property in subclass (2), twelve percent; and
- (3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings

or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank for its service.

15. The provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, shall become effective January 1, 2003, for any taxing jurisdiction [which has at least seventy-five percent of the land area of such jurisdiction] within a county with a charter form of government with greater than one million inhabitants, and the provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session, shall become effective [January 1, 2005] **October 1, 2004**, for all taxing jurisdictions in this state. Any county or city not within a county in this state may, by an affirmative vote of the governing body of such county, opt [into] out of the provisions of this [act] **section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by this act, for the next year of the general reassessment, prior to January [1, 2005] first of any year.** No county or city not within a county shall exercise this opt-out provision after implementing the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by this act, in a year of general reassessment. For the purposes of applying the provisions of this subsection, a political subdivision contained within two or more counties where at least one of such counties has opted out and at least one of such counties has not opted out shall calculate the separate rates for the three subclasses of real property and the aggregate class of personal property as required by section 137.073, provided that such political subdivision shall also provide a single blended rate, in accordance with the procedure for determining a blended rate for school districts in subdivision (1) of subsection 6 of section 137.073. Such blended rate shall be used for the portion of such political subdivision that is situated within any county that has opted out. A governing body of a city not within a county or a county that has opted out under the provisions of this subsection, may choose to implement the provisions of this section and sections 137.073, 138.060, and 138.100, RSMo, as enacted by house bill no. 1150 of the ninety-first general assembly, second regular session and section 137.073 as modified by this act, for the next year of general reassessment, by an affirmative vote of the governing body prior to December thirty-first of any year.

137.720. PERCENTAGE OF AD VALOREM PROPERTY TAX COLLECTIONS TO BE DEDUCTED FOR DEPOSIT IN COUNTY ASSESSMENT FUND — ADDITIONAL DEDUCTION (ST. LOUIS CITY, CHARTER COUNTIES, AND COUNTIES OF THE FIRST CLASSIFICATION). — 1. A percentage of all ad valorem property tax collections allocable to each taxing authority within the county and the county shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750. The percentage shall be one-half of one percent for all counties of the first and second classification and cities not within a county and one percent for counties of the third and fourth classification.

2. For counties of the first classification, counties with a charter form of government, and any city not within a county, an additional one-eighth of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section

137.750, and for counties of the second, third, and fourth classification, an additional one-quarter of one percent of all ad valorem property tax collections shall be deducted from the collections of taxes each year and shall be deposited into the assessment fund of the county as required pursuant to section 137.750, provided that such additional amounts shall not exceed one hundred thousand dollars in any year for any county of the first classification and any county with a charter form of government and fifty thousand dollars in any year for any county of the second, third, or fourth classification.

3. The county shall bill any taxing authority collecting its own taxes. The county may also provide additional moneys for the fund. To be eligible for state cost-share funds provided pursuant to section 137.750, every county shall provide from the county general revenue fund, an amount equal to an average of the three most recent years of the amount provided from general revenue to the assessment fund, except that a lesser amount shall be acceptable if unanimously agreed upon by the county assessor, county governing body and the state tax commission. The county shall deposit the county general revenue funds in the assessment fund as agreed to in its original or amended maintenance plan, state reimbursement funds shall be withheld until the amount due is properly deposited in such fund.

4. Four years following the effective date, the state tax commission shall conduct a study to determine the impact of increased fees on assessed valuation.

5. Any increase to the portion of property tax collections deposited into the county assessment funds provided for in subsection 2 of this section shall be disallowed in any year in which the state tax commission certifies an equivalent sales ratio for the county of less than or equal to thirty-one and two-thirds percent pursuant to the provisions of section 138.395, RSMo.

6. The provisions of subsections 2, 4, and 5 of this section shall expire on December 31, 2009.

SECTION 1. EFFECTIVE DATE OF THE MISSOURI HOMESTEAD PRESERVATION ACT. — Section 137.106, RSMo, shall apply to all tax years beginning on or after January 1, 2005.

SECTION B. CONTINGENT EFFECTIVE DATE. — Section 1 of section A of this act shall become effective upon the passage and approval of conference committee substitute for house substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 730.

Approved June 25, 2004

SB 962 [SCS SB 962]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires athletic trainers to be licensed rather than registered.

AN ACT to repeal sections 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, and 334.717, RSMo, and to enact in lieu thereof eight new sections relating to licensing of athletic trainers.

SECTION

- A. Enacting clause.
 - 334.702. Definitions.
 - 334.704. Athletic trainers required to be licensed.
-

- 334.706. Board of healing arts, powers and duties — rules and regulations, procedure.
- 334.708. Qualifications of athletic trainers seeking licensure.
- 334.710. Licensure forms and fee — deposit of fees.
- 334.712. License issued, when — content.
- 334.715. Refusal — suspension — revocation of license, grounds — reinstatement, procedure.
- 334.717. Missouri athletic trainer advisory committee, appointment — members, qualifications, terms, vacancies.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, and 334.717, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, and 334.717, to read as follows:

334.702. DEFINITIONS. — As used in sections 334.700 to 334.725, unless the context clearly requires otherwise, the following terms mean:

- (1) "Apprentice athletic trainer", a person who assists in the duties usually performed by an athletic trainer and who works under the direct supervision of a [registered] **licensed** athletic trainer;
- (2) "Athlete", a person who participates in a sanctioned amateur or professional sport or recreational sport activity;
- (3) "Athletic trainer", a person who meets the qualifications of section 334.708 and who, upon the direction of the team physician and/or consulting physician, practices prevention, emergency care, first aid, treatment, or physical rehabilitation of injuries incurred by athletes in the manner, means, and methods deemed necessary to effect care or rehabilitation, or both;
- (4) "Board", the Missouri board for the healing arts;
- (5) "Committee", the athletic trainers advisory committee;
- (6) "Division", the division of professional registration of the department of economic development.

334.704. ATHLETIC TRAINERS REQUIRED TO BE LICENSED. — No person shall hold himself out as an athletic trainer in this state unless he has been [registered] **licensed** as such under the provisions of sections 334.700 to 334.725.

334.706. BOARD OF HEALING ARTS, POWERS AND DUTIES — RULES AND REGULATIONS, PROCEDURE. — 1. The board shall [register] **license** applicants who meet the qualifications for athletic trainers, who file for [registration] **licensure**, and who pay all fees required for this [registration] **licensure**.

2. The board shall:

- (1) Prescribe application forms to be furnished to all persons seeking [registration under] **licensure pursuant to** sections 334.700 to 334.725;
- (2) Prepare and conduct examinations for applicants for [registration under] **licensure pursuant to** sections 334.700 to 334.725;
- (3) Prescribe the form and design of the [registration] **licensure** to be issued [under] **pursuant to** sections 334.700 to 334.725;
- (4) Set the fee for examination, [registration] **licensure**, and renewal thereof;
- (5) Keep a record of all of its proceedings regarding the Missouri athletic trainers act and of all athletic trainers [registered] **licensed** in this state;
- (6) Annually prepare a roster of the names and addresses of all athletic trainers [registered] **licensed** in this state, copies of which shall be made available upon request to any person paying the fee therefor;
- (7) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

- (8) Appoint members of the Missouri athletic trainer advisory committee;
- (9) Adopt an official seal.
- 3. The board may:
 - (1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend, or revoke [registration] **licensure**;
 - (2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 334.700 to 334.725;
 - (3) Establish guidelines for athletic trainers in sections 334.700 to 334.725.
- 4. No rule or portion of a rule promulgated under the authority of sections 334.700 to 334.725 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

334.708. QUALIFICATIONS OF ATHLETIC TRAINERS SEEKING LICENSURE. — 1. Any person seeking [registration under] **licensure pursuant to** sections 334.700 to 334.725 must be a resident or in the process of establishing residency in this state and must meet at least one set of the following qualifications:

- (1) Has met all of the National Athletic Trainers Association certification qualifications;
- (2) Holds a degree in physical therapy with at least a minor in physical education or health which included a basic athletic training course and has spent at least two academic years, military duty included, working under the direct supervision of a certified athletic trainer;
- (3) Can show proof acceptable to the board of experience and educational quality equal to that in subdivision (1), and can pass the examination for [registration under] **licensure pursuant to** sections 334.700 to 334.725.

2. The board shall grant, without examination, [registration] **licensure** to any qualified nonresident athletic trainer holding a license or registration in another state if such other state recognizes [registrants] **licensure** of the state of Missouri in the same manner.

334.710. LICENSURE FORMS AND FEE — DEPOSIT OF FEES. — 1. All applications for initial [registration under] **licensure pursuant to** sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by an initial [registration] **licensure** fee. All applications for renewal of [registration] **licensure** issued [under] **pursuant to** sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by a renewal fee.

2. All fees of any kind and character authorized to be charged by the board shall be paid to the director of revenue and shall be deposited by the state treasurer into the board for the healing arts fund, to be disbursed only in payment for expenses of maintaining the athletic trainer [registration] **licensure** program and for the enforcement of the provisions of sections 334.700 to 334.725.

334.712. LICENSE ISSUED, WHEN — CONTENT. — 1. Any person who meets the qualifications listed in section 334.708, submits his application and fees in accordance with section 334.710, and has not committed any act listed in section 334.715 shall be issued [registration under] **a license pursuant to** sections 334.700 to 334.725.

2. Each [registration] **license** issued [under] **pursuant to** sections 334.700 to 334.725 shall contain the name of the person to whom it was issued, the date on which it was issued and such other information as the board deems advisable. All [registrations] **licenses** issued [under] **pursuant to** sections 334.700 to 334.725 shall expire on January thirtieth of each year.

334.715. REFUSAL — SUSPENSION — REVOCATION OF LICENSE, GROUNDS — REINSTATEMENT, PROCEDURE. — 1. The board may refuse to [register] **license** any applicant or may suspend, revoke, or refuse to renew the [registration] **license** of any [registrant] **licensee**

for any one or any combination of the causes provided in section 334.100, or if the applicant or [registrant] **licensee**:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification as adopted and published by the committee and the board and filed with the secretary of state.

2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any [registration] **license** which has expired, been suspended or been revoked or may issue any [registration] **license** which has been denied; provided, that no application for reinstatement or issuance of [registration] **license** shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the [registration] **license** to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.

334.717. MISSOURI ATHLETIC TRAINER ADVISORY COMMITTEE, APPOINTMENT — MEMBERS, QUALIFICATIONS, TERMS, VACANCIES. — 1. There is hereby created the "Missouri Athletic Trainer Advisory Committee", to be composed of five members to be appointed by the board.

2. The athletic trainer advisory committee shall:

(1) Assist the board in conducting examinations for applicants of athletic trainer [registration] **licensure**;

(2) Advise the board on all matters pertaining to the [registration] **licensure** of athletic trainers;

(3) Review all complaints and/or investigations wherein there is a possible violation of sections 334.700 to 334.725 or regulations promulgated pursuant thereto and make recommendations to the board for action;

(4) Follow the provisions of the board's administrative practice procedures in conducting all official duties.

3. Each athletic trainer advisory committee member shall:

(1) Be a citizen of the United States and a resident of the state of Missouri for five years next preceding appointment; and

(2) Be comprised of three [registered] **licensed** athletic trainers except for initial appointees; and

(3) One member shall be a physician duly licensed by the Missouri state board for the healing arts; and

(4) One member shall be a general public member.

4. Except for the initial appointees, members shall hold office for terms of six years. The board shall designate one member for a term expiring in 1984, one member for a term expiring in 1985, one member for a term expiring in 1986, one member for a term expiring in 1987, and one member for a term expiring in 1988. In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the board in the same manner as the other appointments.

Approved July 9, 2004

SB 966 [SB 966]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies employment security laws relating to temporary employees.

AN ACT to repeal section 288.397 as contained in senate substitute no. 2 for senate committee substitute for house substitute for house committee substitute for house bill nos. 1268 and 1211, ninety-second general assembly, second regular session, and to enact in lieu thereof four new sections relating to employment security of temporary employees.

SECTION

- A. Enacting clause.
- 288.401. Temporary employees, defined, deemed to have voluntarily quit employment, when.
- 288.501. Missouri State Unemployment Council created, members, meetings, terms, duties — proposals submitted to division, when — access to records — outside study authorized.
- 288.502. Severability clause.
 - 1. Revisor to amend certain intersectional references.
- 288.397. Division to send summary of changes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 288.397, as contained in senate substitute no. 2 for senate committee substitute for house substitute for house committee substitute for house bill nos. 1268 and 1211, ninety-second general assembly, second regular session, is repealed, and four new sections enacted in lieu thereof, to be known as sections 288.401, 288.501, 288.502, and 1 to read as follows:

288.401. TEMPORARY EMPLOYEES, DEFINED, DEEMED TO HAVE VOLUNTARILY QUIT EMPLOYMENT, WHEN. — **1.** For the purposes of this section, "temporary help firm" means a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects. "Temporary employee" means an employee assigned to work for the clients of a temporary help firm.

2. A temporary employee of a temporary help firm will be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact the firm upon completion of assignments and that unemployment benefits may be denied for failure to do so.

288.501. MISSOURI STATE UNEMPLOYMENT COUNCIL CREATED, MEMBERS, MEETINGS, TERMS, DUTIES — PROPOSALS SUBMITTED TO DIVISION, WHEN — ACCESS TO RECORDS — OUTSIDE STUDY AUTHORIZED. — **1.** There is hereby created a "Missouri State Unemployment Council". The council shall consist of nine appointed voting members and two appointed nonvoting members. All appointees shall be persons whose training and experience qualify them to deal with the difficult problems of unemployment compensation, particularly legal, accounting, actuarial, economic, and social aspects of unemployment compensation.

(1) Three voting members shall be appointed to the council by the governor. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employers. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employees. One voting member shall be appointed to represent the public interest separate from employee or employer representation.

(2) Three voting members and one nonvoting member shall be appointed to the council by the speaker of the house of representatives. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as

representative of employers that employ twenty or less employees. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employees. One voting member shall be appointed to represent the public interest separate from employee or employer representation. One nonvoting member shall be appointed from the house of representatives.

(3) Three voting members and one nonvoting member shall be appointed to the council by the president pro tem of the senate. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employers. One voting member shall be appointed on account of his or her vocation, employment, or affiliations being classed as representative of employees. One voting member shall be appointed to represent the public interest separate from employee or employer representation. One nonvoting member shall be appointed from the senate.

2. The council shall organize itself and select a chairperson or co-chairpersons and other officers from the nine voting members. Six voting members shall constitute a quorum and the council shall act only upon the affirmative vote of at least five of the voting members. The council shall meet no less than four times yearly. Members of the council shall serve without compensation, but are to be reimbursed the amount of actual expenses. Actual expenses shall be paid from the special employment security fund under section 288.310.

3. The division shall provide professional and clerical assistance as needed for regularly scheduled meetings.

4. Each nonvoting member shall serve for a term of four years or until he or she is no longer a member of the general assembly whichever occurs first. A nonvoting member's term shall be a maximum of four years. Each voting member shall serve for a term of three years. For the initial appointment, the governor-appointed employer representative, the speaker of the house-appointed employee representative, and the president pro tem of the senate-appointed public interest representative shall serve an initial term of one year. For the initial appointment, the governor-appointed employee representative, the speaker of the house-appointed public interest representative, and the president pro tem of the senate-appointed employer representative shall serve an initial term of two years. At the end of a voting member's term he or she may be reappointed; however, he or she shall serve no more than two terms excluding the initial term for a maximum of eight years.

5. The council shall advise the division in carrying out the purposes of this chapter. The council shall submit annually by January fifteenth to the governor and the general assembly its recommendations regarding amendments of this chapter, the status of unemployment insurance, the projected maintenance of the solvency of unemployment insurance, and the adequacy of unemployment compensation.

6. The council shall present to the division every proposal of the council for changes in this chapter and shall seek the division's concurrence with the proposal. The division shall give careful consideration to every proposal submitted by the council for legislative or administrative action and shall review each legislative proposal for possible incorporation into department of labor and industrial relations recommendations.

7. The council shall have access to only the records of the division that are necessary for the administration of this chapter and to the reasonable services of the employees of the division. It may request the director or any of the employees appointed by the director or any employee subject to this chapter, to appear before it and to testify relative to the functioning of this chapter and to other relevant matters. The council may conduct research of its own, make and publish reports, and recommend to the division needed changes in this chapter or in the rules of the division as it considers necessary.

8. The council, unless prohibited by a concurrent resolution of the general assembly, shall be authorized to commission an outside study of the solvency, adequacy, and staffing

and operational efficiency of the Missouri unemployment system. The study shall be conducted every five years, the first being conducted in fiscal year 2005. The study shall be funded subject to appropriation from the special employment security fund under section 288.310.

288.502. SEVERABILITY CLAUSE. — If any provision of this act is found by a court of competent jurisdiction to be invalid or unconstitutional it is the stated intent of the legislature that the legislature would have approved the remaining portions of the act, and the remaining portions of the act shall remain in full force and effect.

SECTION 1. REVISOR TO AMEND CERTAIN INTERSECTIONAL REFERENCES. — For purposes of section 288.330, RSMo, as contained in senate substitute no. 2 for senate committee substitute for house substitute for house committee substitute for house bill nos. 1268 and 1211, ninety-second general assembly, second regular session, the revisor of statutes shall renumber subdivision (16) of subsection 2 of such section as subdivision (17) of such subsection and renumber subdivision (17) of subsection 2 of such section as subdivision (16) of such subsection.

[288.397. DIVISION TO SEND SUMMARY OF CHANGES. — The division shall send on or before September 30, 2004, to all employing units a report containing a summary of changes enacted in this act including but not limited to changes in the tax rate, contribution rate, taxable wage base, temporary solvency charges, benefit or eligibility charges, and other pertinent information to enable the employing units to comply with the changes made.]

Approved July 1, 2004

SB 968 [CCS HS HCS SS SCS SB 968 AND SCS SB 969]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to education.

AN ACT to repeal sections 105.454, 160.254, 160.261, 160.570, 162.261, 163.031, 163.036, 165.301, 167.020, 167.031, 167.051, 167.171, 168.104, 168.124, 168.126, 168.211, 168.500, 168.515, 172.360, 209.321, 210.145, 302.272, and 393.310, RSMo, and to enact in lieu thereof thirty-two new sections relating to elementary and secondary education, with penalty provisions and an emergency clause for certain sections.

SECTION

- A. Enacting clause.
 - 105.454. Additional prohibited acts by certain elected and appointed public officials and employees, exceptions.
 - 160.254. General assembly joint committee on education created — appointment — meetings — chairman — quorum — duties — expenses.
 - 160.261. Discipline, written policy established by local boards of education — contents — reporting requirements — additional restrictions for certain suspensions — weapons offense, mandatory suspension or expulsion — no civil liability for authorized personnel — spanking not child abuse, when — investigation procedure — officials falsifying reports, penalty.
 - 160.570. Statewide assessments, policy on student participation, effect on graduation requirements.
 - 161.089. Scoring rubric on performance not to be used, when — department to develop rubric, where.
 - 161.209. Rules and policies, department has affirmative duty to seek comment on — review of existing rules and policies, procedure.
 - 162.032. Annexation or dissolution of school district, health care coverage continuation responsibility of successor district.
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- 162.261. Seven-director district, board of, terms — vacancies — prohibition on hiring spouse of board member, when — constitutional prohibition on nepotism applies to districts.
- 163.031. State aid — amount, how determined — deductions — categorical add-on revenue, determination of amount — district apportionment, determination of — adjustment of operating levy — minimum revenue — waiver of rules — deposits to outstanding schools trust fund, when — placement of funds received — penalty.
- 163.036. Estimates of average daily attendance, authorized, how computed — summer school computation — error in computation between actual and estimated attendance, how corrected — use of assessed valuation for state aid — delinquency in payment of property tax, effect on assessment.
- 165.301. Selection of depositaries in metropolitan districts.
- 167.020. Registration requirements — residency — homeless child or youth defined — recovery of costs, when — records to be requested, provided, when.
- 167.031. School attendance compulsory, who may be excused — nonattendance, penalty — home school, definition, requirements — school year defined — daily log, defense to prosecution — compulsory attendance age for the district defined.
- 167.051. Compulsory attendance of part-time schools.
- 167.052. Applicability of compulsory attendance and part-time school requirements for metropolitan school districts.
- 167.166. Prohibition on strip searches, exceptions — strip search defined — violation, penalty — prohibition on removal of certain items not deemed disruptive.
- 167.171. Summary suspension of pupil — appeal — grounds for suspension — procedure — conference required, when — statewide suspension, when.
- 168.104. Definitions.
- 168.124. Board may place on leave — provisions governing — salary to be paid to affected teacher, when.
- 168.126. Probationary teachers, how terminated — notice, contents — reemployed, how.
- 168.211. Superintendent of schools, appointment, term — superintendent to appoint a treasurer and commissioner of school buildings and associate and assistant superintendents — bond — powers of superintendent (metropolitan districts).
- 168.500. Career and teacher excellence plan, career ladder forward funding fund established — general assembly to appropriate funds — termination of fund — participation to be voluntary — qualifications — speech pathologists on career program, when.
- 168.515. Salary supplement for participants in career plan — method of distribution — amounts — matching funds, formula, contributions — bonus contribution, when — review of career pay — tax levy authorized, when — use of funds — exception to contribution.
- 171.053. Participation in sanctioned program activities, excused absences allowed — state aid, computation for such activities.
- 172.360. Students admissible — tuition and fees.
- 209.321. License required to practice interpreting — certain professions exempt — practice to be limited to training and education — not considered interpreting, when — out-of-state licenses, temporary interpreting permitted — provisional licensure, criteria.
- 210.145. Telephone hotline for reports on child abuse — division duties, protocols, law enforcement contacted immediately, investigation conducted, when, exception — chief investigator named — family support team meetings, who may attend — reporter's right to receive information — admissibility of reports in custody cases.
- 302.272. School bus permit, qualifications — permit renewal, when — fee — temporary permits — grounds for refusal to issue or renew permit — criminal record checks of applicants.
- 393.310. Certain gas corporations to file set of experimental tariffs with PSC, minimum requirements — expiration date — extension of tariffs.
 - 1. Reimbursement by department for coordinator, when.
 - 2. Contact hours included in professional development requirements for vocational-technical certification.
 - 3. Internet web sites, required postings.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 105.454, 160.254, 160.261, 160.570, 162.261, 163.031, 163.036, 165.301, 167.020, 167.031, 167.051, 167.171, 168.104, 168.124, 168.126, 168.211, 168.500, 168.515, 172.360, 209.321, 210.145, 302.272, and 393.310, RSMo, are repealed and thirty-two new sections enacted in lieu thereof, to be known as sections 105.454, 160.254, 160.261, 160.570, 161.089, 161.209, 162.032, 162.261, 163.031, 163.036, 165.301, 167.020, 167.031, 167.051, 167.052, 167.166, 167.171, 168.104, 168.124, 168.126, 168.211, 168.500, 168.515, 171.053, 172.360, 209.321, 210.145, 302.272, 393.310, 1, 2, and 3, to read as follows:

105.454. ADDITIONAL PROHIBITED ACTS BY CERTAIN ELECTED AND APPOINTED PUBLIC OFFICIALS AND EMPLOYEES, EXCEPTIONS. — No elected or appointed official or employee of the state or any political subdivision thereof, serving in an executive or administrative capacity, shall:

(1) Perform any service for any agency of the state, or for any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power for receipt or payment of any compensation, other than of the compensation provided for the performance of his or her official duties, in excess of five hundred dollars per transaction or one thousand five hundred dollars per annum, **or in the case of a school board five thousand dollars per annum**, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received.

(2) Sell, rent or lease any property to any agency of the state, or to any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power and received consideration therefor in excess of five hundred dollars per transaction or one thousand five hundred dollars per year, **or in the case of a school board five thousand dollars per annum**, unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(3) Participate in any matter, directly or indirectly, in which he or she attempts to influence any decision of any agency of the state, or political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power, when he or she knows the result of such decision may be the acceptance of the performance of a service or the sale, rental, or lease of any property to that agency for consideration in excess of five hundred dollars' value per transaction or one thousand five hundred dollars' value per annum to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(4) Perform any services during the time of his or her office or employment for any consideration from any person, firm or corporation, other than the compensation provided for the performance of his or her official duties, by which service he or she attempts to influence a decision of any agency of the state, or of any political subdivision in which he or she is an officer or employee or over which he or she has supervisory power;

(5) Perform any service for consideration, during one year after termination of his or her office or employment, by which performance he or she attempts to influence a decision of any agency of the state, or a decision of any political subdivision in which he or she was an officer or employee or over which he or she had supervisory power, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation therefor, in any adversary proceeding or in the preparation or filing of any public document or to prohibit an employee of the executive department from being employed by any other department, division or agency of the executive branch of state government. For purposes of this subdivision, within ninety days after assuming office, the governor shall by executive order designate those members of his or her staff who have supervisory authority over each department, division or agency of state government for purposes of application of this subdivision. The executive order shall be amended within ninety days of any change in the supervisory assignments of the governor's staff. The governor shall designate not less than three staff members pursuant to this subdivision;

(6) Perform any service for any consideration for any person, firm or corporation after termination of his or her office or employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment.

160.254. GENERAL ASSEMBLY JOINT COMMITTEE ON EDUCATION CREATED — APPOINTMENT — MEETINGS — CHAIRMAN — QUORUM — DUTIES — EXPENSES. — 1. There is hereby established a joint committee of the general assembly, which shall be known as the "Joint Committee on Education", which shall be composed of [five] **seven** members of the senate and [five] **seven** members of the house of representatives. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house.

2. The committee [shall only] **may** meet and function in [the year 1988 and each fourth year thereafter. Members shall be appointed on the first day of the legislative session in January of every year in which the committee is to meet and function, and shall serve for a period of not less than six months nor more than one year] **any year that the president pro tem of the senate and the speaker of the house of representatives appoint members to serve on the committee. In the event of three consecutive absences on the part of any member, such member may be removed from the committee.**

3. The committee shall [be first convened ten days after its appointment and shall] select either a chairman or cochairmen, one of whom shall be a member of the senate and one a member of the house. A majority of the members shall constitute a quorum. Meetings of the committee may be called at such time and place as the chairman or chairmen designate.

4. The committee shall:

- (1) Review and monitor the progress of education in the state's public schools;
- (2) Receive reports from the commissioner of education concerning the public schools;
- (3) Conduct a study and analysis of the public school system;
- (4) Make recommendations to the general assembly for legislative action; **and**

(5) Conduct an in-depth study concerning all issues relating to the equity and adequacy of the distribution of state school aid, teachers' salaries, funding for school buildings, and overall funding levels for schools and any other education funding-related issues the committee deems relevant.

5. The committee may make reasonable requests for staff assistance from the research and appropriations staffs of the house and senate and the committee on legislative research, as well as the department of elementary and secondary education [and], the department of higher education, **the coordinating board for higher education, the state tax commission, all school districts and other political subdivisions of this state, teachers and teacher groups, business and other commercial interests and any other interested persons.**

6. Members of the committee shall receive no compensation but may be reimbursed for reasonable and necessary expenses associated with the performance of their official duties.

160.261. DISCIPLINE, WRITTEN POLICY ESTABLISHED BY LOCAL BOARDS OF EDUCATION — CONTENTS — REPORTING REQUIREMENTS — ADDITIONAL RESTRICTIONS FOR CERTAIN SUSPENSIONS — WEAPONS OFFENSE, MANDATORY SUSPENSION OR EXPULSION — NO CIVIL LIABILITY FOR AUTHORIZED PERSONNEL — SPANKING NOT CHILD ABUSE, WHEN — INVESTIGATION PROCEDURE — OFFICIALS FALSIFYING REPORTS, PENALTY. — 1. The local board of education of each school district shall clearly establish a written policy of discipline, including the district's determination on the use of corporal punishment and the procedures in which punishment will be applied. A written copy of the district's discipline policy and corporal punishment procedures, if applicable, shall be provided to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning of each school year and also made available in the office of the superintendent of such district, during normal business hours, for public inspection. All employees of the district shall annually receive instruction related to the specific contents of the policy of discipline and any interpretations necessary to implement the provisions of the policy in the course of their duties, including but not limited to approved methods of dealing with acts of school violence, disciplining students with disabilities and instruction in the necessity and requirements for confidentiality.

2. The policy shall require school administrators to report acts of school violence to teachers and other school district employees with a need to know. For the purposes of this chapter or chapter 167, RSMo, "need to know" is defined as school personnel who are directly responsible for the student's education or who otherwise interact with the student on a professional basis while acting within the scope of their assigned duties. As used in this section, the phrase "act of school violence" or "violent behavior" means the exertion of physical force by a student with the intent to do serious physical injury as defined in subdivision (6) of section 565.002, RSMo, to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following felonies, or any act which if committed by an adult would be one of the following felonies:

- (1) First degree murder under section 565.020, RSMo;
- (2) Second degree murder under section 565.021, RSMo;
- (3) Kidnapping under section 565.110, RSMo;
- (4) First degree assault under section 565.050, RSMo;
- (5) Forcible rape under section 566.030, RSMo;
- (6) Forcible sodomy under section 566.060, RSMo;
- (7) Burglary in the first degree under section 569.160, RSMo;
- (8) Burglary in the second degree under section 569.170, RSMo;
- (9) Robbery in the first degree under section 569.020, RSMo;
- (10) Distribution of drugs under section 195.211, RSMo;
- (11) Distribution of drugs to a minor under section 195.212, RSMo;
- (12) Arson in the first degree under section 569.040, RSMo;
- (13) Voluntary manslaughter under section 565.023, RSMo;
- (14) Involuntary manslaughter under section 565.024, RSMo;
- (15) Second degree assault under section 565.060, RSMo;
- (16) Sexual assault under section 566.040, RSMo;
- (17) Felonious restraint under section 565.120, RSMo;
- (18) Property damage in the first degree under section 569.100, RSMo;
- (19) The possession of a weapon under chapter 571, RSMo;
- (20) Child molestation in the first degree pursuant to section 566.067, RSMo;
- (21) Deviate sexual assault pursuant to section 566.070, RSMo;
- (22) Sexual misconduct involving a child pursuant to section 566.083, RSMo; or
- (23) Sexual abuse pursuant to section 566.100, RSMo; committed on school property,

including but not limited to actions on any school bus in service on behalf of the district or while involved in school activities. The policy shall require that any portion of a student's individualized education program that is related to demonstrated or potentially violent behavior shall be provided to any teacher and other school district employees who are directly responsible for the student's education or who otherwise interact with the student on an educational basis while acting within the scope of their assigned duties. The policy shall also contain the consequences of failure to obey standards of conduct set by the local board of education, and the importance of the standards to the maintenance of an atmosphere where orderly learning is possible and encouraged.

3. The policy shall provide that any student who is on suspension for any of the offenses listed in subsection 2 of this section or any act of violence or drug-related activity defined by school district policy as a serious violation of school discipline pursuant to subsection 9 of this section shall have as a condition of his or her suspension the requirement that such student is not allowed, while on such suspension, to be within one thousand feet of any public school in the school district where such student attended school unless:

(1) Such student is under the direct supervision of the student's parent, legal guardian, or custodian;

(2) Such student is under the direct supervision of another adult designated by the student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school which suspended the student;

(3) Such student is in an alternative school that is located within one thousand feet of a public school in the school district where such student attended school; or

(4) Such student resides within one thousand feet of any public school in the school district where such student attended school in which case such student may be on the property of his or her residence without direct adult supervision.

4. Any student who violates the condition of suspension required pursuant to subsection 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of sections 167.161, 167.164, and 167.171, RSMo. In making this determination consideration shall be given to whether the student poses a threat to the safety of any child or school employee and whether such student's unsupervised presence within one thousand feet of the school is disruptive to the educational process or undermines the effectiveness of the school's disciplinary policy. Removal of any pupil who is a student with a disability is subject to state and federal procedural rights.

[3.] 5. The policy shall provide for a suspension for a period of not less than one year, or expulsion, for a student who is determined to have brought a weapon to school, including but not limited to the school playground or the school parking lot, brought a weapon on a school bus or brought a weapon to a school activity whether on or off of the school property in violation of district policy, except that:

(1) The superintendent, or in a school district with no high school, the principal of the school which such child attends may modify such suspension on a case-by-case basis; and

(2) This section shall not prevent the school district from providing educational services in an alternative setting to a student suspended under the provisions of this section.

[4.] 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined under 18 U.S.C. 921 and the following items, as defined in section 571.010, RSMo: a blackjack, a concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife, knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade knife; except that this section shall not be construed to prohibit a school board from adopting a policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for educational purposes so long as the firearm is unloaded. The local board of education shall define weapon in the discipline policy. Such definition shall include the weapons defined in this subsection but may also include other weapons.

[5.] 7. All school district personnel responsible for the care and supervision of students are authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any property of the school, on any school bus going to or returning from school, during school-sponsored activities, or during intermission or recess periods.

[6.] 8. Teachers and other authorized district personnel in public schools responsible for the care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable care by the school district, shall not be civilly liable when acting in conformity with the established policy of discipline developed by each board under this section, or when reporting to his or her supervisor or other person as mandated by state law, acts of school violence or threatened acts of school violence, within the course and scope of the duties of the teacher, authorized district personnel or volunteer, when such individual is acting in conformity with the established policies developed by the board. Nothing in this section shall be construed to create a new cause of action against such school district, or to relieve the school district from liability for the negligent acts of such persons.

[7.] 9. Each school board shall define in its discipline policy acts of violence and any other acts that constitute a serious violation of that policy. Acts of violence as defined by school

boards shall include but not be limited to exertion of physical force by a student with the intent to do serious bodily harm to another person while on school property, including a school bus in service on behalf of the district, or while involved in school activities. School districts shall for each student enrolled in the school district compile and maintain records of any serious violation of the district's discipline policy. Such records shall be made available to teachers and other school district employees with a need to know while acting within the scope of their assigned duties, and shall be provided as required in section 167.020, RSMo, to any school district in which the student subsequently attempts to enroll.

[8.] 10. Spanking, when administered by certificated personnel of a school district in a reasonable manner in accordance with the local board of education's written policy of discipline, is not abuse within the meaning of chapter 210, RSMo. The provisions of sections 210.110 to 210.165, RSMo, notwithstanding, the division of family services shall not have jurisdiction over or investigate any report of alleged child abuse arising out of or related to any spanking administered in a reasonable manner by any certificated school personnel pursuant to a written policy of discipline established by the board of education of the school district. Upon receipt of any reports of child abuse by the division of family services pursuant to sections 210.110 to 210.165, RSMo, which allegedly involves personnel of a school district, the division of family services shall notify the superintendent of schools of the district or, if the person named in the alleged incident is the superintendent of schools, the president of the school board of the school district where the alleged incident occurred. If, after an initial investigation, the superintendent of schools or the president of the school board finds that the report involves an alleged incident of child abuse other than the administration of a spanking by certificated school personnel pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, the superintendent of schools or the president of the school board shall immediately refer the matter back to the division of family services and take no further action. In all matters referred back to the division of family services, the division of family services shall treat the report in the same manner as other reports of alleged child abuse received by the division. If the report pertains to an alleged incident which arose out of or is related to a spanking administered by certificated personnel of a school district pursuant to a written policy of discipline or a report made for the sole purpose of harassing a public school employee, a notification of the reported child abuse shall be sent by the superintendent of schools or the president of the school board to the juvenile officer of the county in which the alleged incident occurred. The report shall be jointly investigated by the juvenile officer or a law enforcement officer designated by the juvenile officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by the juvenile officer or a law enforcement officer designated by the juvenile officer and the president of the school board or such president's designee. The investigation shall begin no later than forty-eight hours after notification from the division of family services is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the division of family services. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated. The school board shall consider the separate reports and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school board personnel agree that the evidence shows that no abuse occurred;

(2) The report of the alleged child abuse is substantiated. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school district personnel agree that the evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The juvenile officer or a law enforcement officer designated by the juvenile officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

[9.] **11.** The findings and conclusions of the school board shall be sent to the division of family services. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the division of family services' central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the division of family services shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school board, however, the incident and the names of the parties allegedly involved shall not be entered into the central registry of the division of family services unless and until the alleged child abuse is substantiated by a court of competent jurisdiction.

[10.] **12.** Any superintendent of schools, president of a school board or such person's designee or juvenile officer who knowingly falsifies any report of any matter pursuant to this section or who knowingly withholds any information relative to any investigation or report pursuant to this section is guilty of a class A misdemeanor.

13. In order to ensure the safety of all students, should a student be expelled for bringing a weapon to school, violent behavior, or for an act of school violence, that student shall not, for the purposes of the accreditation process of the Missouri school improvement plan, be considered a dropout or be included in the calculation of that district's educational persistence ratio.

160.570. STATEWIDE ASSESSMENTS, POLICY ON STUDENT PARTICIPATION, EFFECT ON GRADUATION REQUIREMENTS. — **1.** Nothing in this section or section 105.1209, RSMo, shall be construed to affect or limit any state agency's authority regarding professional registration, licensing or issuance of professional certificates, nor shall this section be construed to limit or affect the authority of the state board of education to examine applicants and issue high school equivalency certificates[; except that].

2. The school board of each school district shall establish a written policy on student participation in statewide assessments. The policy shall be provided to each student and the parent, guardian or other person responsible for every student under eighteen years of age at the beginning of each school year and a copy of the policy shall be maintained in the district office and shall be available for viewing by the public during business hours of the district office. [The policy] **A school board** may establish a [system of rewards and punishments] **policy** designed to encourage students to give their best efforts on each portion of any statewide assessment established pursuant to section 160.518, RSMo, **which may include but is not limited to incentives or supplementary work as a consequence of performance.**

3. In no case shall the state board of education or any other state agency establish any single test or group of tests as a condition or requirement for high school graduation or as a requirement for a state-approved diploma.

161.089. SCORING RUBRIC ON PERFORMANCE NOT TO BE USED, WHEN — DEPARTMENT TO DEVELOP RUBRIC, WHERE. — **1. The Missouri school improvement**

program or successor accreditation program shall not use a scoring rubric on performance that requires a score for Parents as Teachers; except that, if on review deficiencies are noted, such deficiencies shall be listed as an area of concern.

2. The scoring rubric for advanced placement courses in the Missouri school improvement program or successor accreditation program shall recognize the difficulty of providing such courses in districts that have a sparse population. The department of elementary and secondary education shall develop such a rubric, taking into account population density in districts and localized teacher shortages in academic specializations, and differentially rewarding districts for accomplishing delivery of such courses through electronic media under such circumstances.

161.209. RULES AND POLICIES, DEPARTMENT HAS AFFIRMATIVE DUTY TO SEEK COMMENT ON — REVIEW OF EXISTING RULES AND POLICIES, PROCEDURE. — The department of elementary and secondary education has an affirmative duty to seek comment on its rules, regulations, and policies after their final approval or implementation. The department shall undertake such review on existing rules, regulations, and policies on an ad hoc, periodic basis with a priority given to such rules, regulations, and policies that could successfully be revised without affecting student achievement to accommodate periods when there is no increase in the appropriation for basic state aid funding pursuant to section 163.031, RSMo, from one fiscal year to the next or when withholdings of appropriated funds result in a situation equivalent to no increase in such appropriation.

162.032. ANNEXATION OR DISSOLUTION OF SCHOOL DISTRICT, HEALTH CARE COVERAGE CONTINUATION RESPONSIBILITY OF SUCCESSOR DISTRICT. — If a school district is annexed to an existing district or divided into two or more districts by a vote of the citizens, or is dissolved under the lapse procedures in section 162.081, court action, or any other authority of Missouri or federal laws, the successor school district shall become responsible for ensuring access to continuation of health insurance coverage for retired teachers and employees of the district if the original district offers health insurance coverage to its retirees at the time of its loss of corporate structure. If an original district is divided into multiple successor districts, such responsibility shall be assigned to the successor district with the largest eligible pupil count in the most recently completed school year.

162.261. SEVEN-DIRECTOR DISTRICT, BOARD OF, TERMS — VACANCIES — PROHIBITION ON HIRING SPOUSE OF BOARD MEMBER, WHEN — CONSTITUTIONAL PROHIBITION ON NEPOTISM APPLIES TO DISTRICTS. — 1. The government and control of a seven-director school district, other than an urban district, is vested in a board of education of seven members, who hold their office for three years, except as provided in section 162.241, and until their successors are duly elected and qualified. Any vacancy occurring in the board shall be filled by the remaining members of the board; except that if there are more than two vacancies at any one time, the county commission upon receiving written notice of the vacancies shall fill the vacancies by appointment. The person appointed shall hold office until the next municipal election, when a director shall be elected for the unexpired term.

2. No seven-director, urban, or metropolitan school district board of education shall hire a spouse of any member of such board for a vacant or newly created position unless the position has been advertised pursuant to board policy and the superintendent of schools submits a written recommendation for the employment of the spouse to the board of education. The names of all applicants as well as the name of the applicant hired for the position are to be included in the board minutes.

3. The provisions of article VII, section 6 of the Missouri Constitution apply to school districts.

163.031. STATE AID — AMOUNT, HOW DETERMINED — DEDUCTIONS — CATEGORICAL ADD-ON REVENUE, DETERMINATION OF AMOUNT — DISTRICT APPORTIONMENT, DETERMINATION OF — ADJUSTMENT OF OPERATING LEVY — MINIMUM REVENUE — WAIVER OF RULES — DEPOSITS TO OUTSTANDING SCHOOLS TRUST FUND, WHEN — PLACEMENT OF FUNDS RECEIVED — PENALTY. — 1. School districts which meet the requirements of section 163.021 shall be entitled to an amount computed as follows: an amount determined by multiplying the number of eligible pupils by the lesser of the district's equalized operating levy for school purposes as defined in section 163.011 or two dollars and seventy-five cents per one hundred dollars assessed valuation multiplied by the guaranteed tax base per eligible pupil times the proration factor plus an amount determined by multiplying the number of eligible pupils by the greater of zero or the district's equalized operating levy for school purposes as defined in section 163.011 minus two dollars and seventy-five cents per one hundred dollars assessed valuation multiplied by the guaranteed tax base per eligible pupil times the proration factor. For the purposes of this section, the proration factor shall be equal to the sum of the total appropriation for distribution under subsections 1 and 2 of this section; and the state total of the deductions as calculated in subsection 2 of this section which do not exceed the district entitlements as adjusted by the same proration factor; divided by the amount of the state total of district entitlements before proration as calculated pursuant to this subsection; provided that, if the proration factor so calculated is greater than one, the proration factor for line 1(b) shall be the greater of one or the proration factor for line 1(a) minus five hundredths, and provided that if the proration factor so calculated is less than one, the proration factor for line 1(a) shall be the lesser of one or the proration factor for line 1(b) plus five hundredths.

2. From the district entitlement for each district there shall be deducted the following amounts: an amount determined by multiplying the district equalized assessed valuation by the district's equalized operating levy for school purposes times the district income factor plus ninety percent of any payment received the current year of protested taxes due in prior years no earlier than the 1997 tax year minus the amount of any protested taxes due in the current year and for which notice of protest was received during the current year; one hundred percent of the amount received the previous year for school purposes from intangible taxes, fines, forfeitures and escheats, payments in lieu of taxes and receipts from state assessed railroad and utility tax, except that any penalty paid after July 1, 1995, by a concentrated animal feeding operation as defined by the department of natural resources rule shall not be included; one hundred percent of the amounts received the previous year for school purposes from federal properties pursuant to sections 12.070 and 12.080, RSMo; federal impact aid received the previous year for school purposes pursuant to P.L. 81-874 less fifty thousand dollars multiplied by ninety percent or the maximum percentage allowed by federal regulation if that percentage is less than ninety; fifty percent, or the percentage otherwise provided in section 163.087 of Proposition C revenues received the previous year for school purposes from the school district trust fund pursuant to section 163.087; one hundred percent of the amount received the previous year for school purposes from the fair share fund pursuant to section 149.015, RSMo; and one hundred percent of the amount received the previous year for school purposes from the free textbook fund, pursuant to section 148.360, RSMo.

3. School districts which meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. There shall be individual proration factors for each categorical entitlement provided for in this subsection, and each proration factor shall be determined by annual appropriations, but no categorical proration factor shall exceed the entitlement proration factor established pursuant to subsection 1 of this section, except that **the career ladder entitlement proration factor established pursuant to line 15 of subsection 6 of this section**, the vocational education entitlement proration factor established pursuant to line 16 of subsection 6 of this section, and the educational and screening program entitlements proration factor established pursuant to line 17 of subsection 6 of this section may exceed the entitlement proration factor established pursuant to subsection 1 of this section. The categorical

add-on for the district shall be the sum of: seventy-five percent of the costs of adopting and providing a violence prevention program pursuant to section 161.650, RSMo, multiplied by the proration factor; seventy-five percent of the district allowable transportation costs pursuant to section 163.161 multiplied by the proration factor; the special education approved or allowed cost entitlement for the district, provided for by section 162.975, RSMo, multiplied by the proration factor; seventy-five percent of the district gifted education approved or allowable cost entitlement as determined pursuant to section 162.975, RSMo, multiplied by the proration factor; the free and reduced lunch eligible pupil count for the district, as defined in section 163.011, multiplied by twenty percent, for a district with an operating levy in excess of two dollars and seventy-five cents per one hundred dollars assessed valuation, or twenty-two percent, otherwise times the guaranteed tax base per eligible pupil times two dollars and seventy-five cents per one hundred dollars assessed valuation times the proration factor plus the free and reduced lunch eligible pupil count for the district, as defined in section 163.011, times thirty percent times the guaranteed tax base per eligible pupil times the following quantity: ((the greater of zero or the district's operating levy for school purposes minus two dollars and seventy-five cents per one hundred dollars assessed valuation) times one or, beginning in the fifth year following the effective date of this section, the quotient of the district's fiscal instructional ratio of efficiency for the prior year divided by the fiscal year 1998 statewide average fiscal instructional ratio of efficiency, if the district's prior year fiscal instructional ratio of efficiency is at least five percent below the fiscal year 1998 statewide average) times the proration factor, minus court-ordered state desegregation aid received by the district for operating purposes; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo, [multiplied by the proration factor]; the vocational education entitlement for the district, as provided for in section 167.332, RSMo, multiplied by the proration factor and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699, RSMo, times the proration factor.

4. Each district's apportionment shall be the prorated categorical add-ons plus the greater of the district's prorated entitlement minus the total deductions for the district or zero.

5. (1) In the 1993-94 school year and all subsequent school years, pursuant to section 10(c) of article X of the state constitution, a school district shall adjust upward its operating levy for school purposes to the extent necessary for the district to at least maintain the current operating expenditures per pupil received by the district from all sources in the 1992-93 school year, except that its operating levy for school purposes shall not exceed the highest tax rate in effect subsequent to the 1980 tax year, or the minimum rate required by subsection 2 of section 163.021, whichever is less.

(2) The revenue per eligible pupil received by a district from the following sources: line 1 minus line 10, or zero if line 1 minus line 10 is less than zero, plus line 14 of subsection 6 of this section, shall not be less than the revenue per eligible pupil received by a district in the 1992-93 school year from the foundation formula entitlement payment amount plus the amount of line 14 per eligible pupil that exceeds the line 14 per pupil amount from the 1997-98 school year, or the revenue per eligible pupil received by a district in the 1992-93 school year from the foundation formula entitlement payment amount plus the amount of line 14(a) per eligible pupil times the quotient of line 1 minus line 10, divided by the number of eligible pupils, or zero if line 1 minus line 10 is less than zero, divided by the revenue per eligible pupil received by the district in the 1992-93 school year from the foundation formula entitlement payment amount, whichever is greater. The department of elementary and secondary education shall make an addition in the payment amount of line 19 of subsection 6 of this section to assure compliance with the provisions contained in this section.

(3) For any school district which meets the eligibility criteria for state aid as established in section 163.021, but which under subsections 1 to 4 of this section, receives no state aid for two successive school years, other than categorical add-ons, by August first following the second such school year, the commissioner of education shall present a plan to the superintendent of the

school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, RSMo. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school district related to the authority of the state board of education to classify school districts pursuant to section 161.092, RSMo, and such other rules as determined by the commissioner of education, except that such waivers shall not include the provisions established pursuant to sections 160.514 and 160.518, RSMo.

(4) In the 1993-94 school year and each school year thereafter for two years, those districts which are entitled to receive state aid under subsections 1 to 4 of this section, shall receive state aid in an amount per eligible pupil as provided in this subsection. For the 1993-94 school year, the amount per eligible pupil shall be twenty-five percent of the amount of state aid per eligible pupil calculated for the district for the 1993-94 school year pursuant to subsections 1 to 4 of this section plus seventy-five percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1993-94 school year pursuant to subsections 1 to 4 of this section. For the 1994-95 school year, the amount per eligible pupil shall be fifty percent of the amount of state aid per eligible pupil calculated for the district for the 1994-95 school year pursuant to subsections 1 to 4 of this section plus fifty percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1994-95 school year pursuant to subsections 1 to 4 of this section. For the 1995-96 school year, the amount of state aid per eligible pupil shall be seventy-five percent of the amount of state aid per eligible pupil calculated for the district for the 1995-96 school year pursuant to subsections 1 to 4 of this section plus twenty-five percent of the total amount of state aid received by the district from all sources for the 1992-93 school year for which the district is entitled and which are distributed in the 1995-96 school year pursuant to subsections 1 to 4 of this section. Nothing in this subdivision shall be construed to limit the authority of a school district to raise its district operating levy pursuant to subdivision (1) of this subsection.

(5) If the total of state aid apportionments to all districts pursuant to subdivision (3) of this subsection is less than the total of state aid apportionments calculated pursuant to subsections 1 to 4 of this section, then the difference shall be deposited in the outstanding schools trust fund. If the total of state aid apportionments to all districts pursuant to subdivision (1) of this subsection is greater than the total of state aid apportionments calculated pursuant to subsections 1 to 4 of this section, then funds shall be transferred from the outstanding schools trust fund to the state school moneys fund to the extent necessary to fund the district entitlements as modified by subdivision (4) of this subsection for that school year with a district entitlement proration factor no less than one and such transfer shall be given priority over all other uses for the outstanding schools trust fund as otherwise provided by law.

6. State aid shall be determined as follows:

District Entitlement

- 1(a). Number of eligible pupils x (lesser of district's equalized operating levy for school purposes or two dollars and seventy-five cents per one hundred dollars assessed valuation) x (proration x GTB per EP) \$......
- 1(b). Number of eligible pupils x (greater of: 0, or district's equalized operating levy for school purposes minus two dollars and seventy-five cents per one hundred

	dollars assessed valuation) x (proration x GTB per EP)	\$.....
	Deductions	
2.	District equalized assessed valuation x district income factor x district's equalized operating levy for school purposes plus ninety percent of any payment received the current year of protested taxes due in prior years no earlier than the 1997 tax year minus the amount of any protested taxes due in the current year and for which notice of protest was received during the current year	\$.....
3.	Intangible taxes, fines, forfeitures, escheats, payments in lieu of taxes, etc. (100% of the amount received the previous year for school purposes)	\$.....
4.	Receipts from state assessed railroad and utility tax (100% of the amount received the previous year for school purposes)	\$.....
5.	Receipts from federal properties pursuant to sections 12.070 and 12.080, RSMo (100% of the amount received the previous year for school purposes)	\$.....
6.	(Federal impact aid received the previous year for school purposes pursuant to P.L. 81-874 less \$50,000) x 90% or the maximum percentage allowed by federal regulations if less than 90%	\$.....
7.	Fifty percent or the percentage otherwise provided in section 163.087 of Proposition C receipts from the school district trust fund received the previous year for school purposes pursuant to section 163.087	\$.....
8.	One hundred percent of the amount received the previous year for school purposes from the fair share fund pursuant to section 149.015, RSMo	\$.....
9.	One hundred percent of the amount received the previous year for school purposes from the free textbook fund pursuant to section 148.360, RSMo	\$.....
10.	Total deductions (sum of lines 2-9)	\$.....
	Categorical Add-ons	
11.	The amount distributed pursuant to section 163.161 x proration	\$.....
12.	Special education approved or allowed cost entitlement for the district pursuant to section 162.975, RSMo,	

- x proration \$.....
13. Seventy-five percent of the gifted education approved or allowable cost entitlement as determined pursuant to section 162.975, RSMo, x proration \$.....
- 14(a). Free and reduced lunch eligible pupil count for the district, as defined in section 163.011, x .20, if operating levy in excess of \$2.75, or .22, otherwise x GTB per EP x \$2.75 per \$100 AV x proration \$.....
- 14(b). Free and reduced lunch eligible pupil count for the district, as defined in section 163.011 x .30 x GTB x ((the greater of zero or the district's adjusted operating levy minus \$2.75 per \$100 AV) x (1.0 or, beginning in the fifth year following the effective date of this section, the district's FIRE for the prior year/statewide average FIRE for FY 1998, if the district's prior year FIRE is at least five percent below the FY 1998 statewide average FIRE) x proration) - court-ordered state desegregation aid received by the district for operating purposes \$.....
15. Career ladder entitlement for the district as provided for in sections 168.500 to 168.515, RSMo, [x proration] \$.....
16. Vocational education entitlements for the district as provided in section 167.332, RSMo, x proration \$.....
17. Educational and screening program entitlements for the district as provided in sections 178.691 to 178.699, RSMo, x proration \$.....
18. Sum of categorical add-ons for the district (sum of lines 11-17) \$.....
19. District apportionment (line 18 plus the greater of line 1 minus line 10 or zero) \$.....

7. Revenue received for school purposes by each school district pursuant to this section shall be placed in each of the incidental and teachers' funds based on the ratio of the property tax rate in the district for that fund to the total tax rate in the district for the two funds.

8. In addition to the penalty for line 14 described in subsection 6 of this section, beginning in school year 2004-05, any increase in a school district's funds received pursuant to line 14 of subsection 6 of this section over the 1997-98 school year shall be reduced by one percent for each full percentage point the percentage of the district's pupils scoring at or above five percent below the statewide average level on either mathematics or reading is less than sixty-five percent.

9. If a school district's annual audit discloses that students were inappropriately identified as eligible for free or reduced-price lunch and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of line 14 aid

paid on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of the line 14 aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

163.036. ESTIMATES OF AVERAGE DAILY ATTENDANCE, AUTHORIZED, HOW COMPUTED — SUMMER SCHOOL COMPUTATION — ERROR IN COMPUTATION BETWEEN ACTUAL AND ESTIMATED ATTENDANCE, HOW CORRECTED — USE OF ASSESSED VALUATION FOR STATE AID — DELINQUENCY IN PAYMENT OF PROPERTY TAX, EFFECT ON ASSESSMENT. — 1. In computing the amount of state aid a school district is entitled to receive **for the minimum school term only** under section 163.031, a school district may use an estimate of the number of eligible pupils for the [ensuing] **current** year, the number of eligible pupils for the immediately preceding year or the number of eligible pupils for the second preceding school year, whichever is greater. **Beginning with the 2005-2006 school year, the summer school add-on for eligible pupils as defined in subdivision (8) of section 163.011 shall include only those eligible pupils that attend summer school in the current year. Beginning with the 2004-2005 school year, when a district's official calendar for the current year contributes to a more than ten percent reduction in the average daily attendance for kindergarten compared to the immediately preceding year, the eligible pupil payment attributable to kindergarten shall include only the current year kindergarten average daily attendance.** Except as otherwise provided in subsection 3 of this section, any error made in the apportionment of state aid because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating eligible pupils exceeds the amount to which the district was actually entitled by more than five percent, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

2. Notwithstanding the provisions of subsection 1 of this section or any other provision of law, the state board of education shall make an adjustment for the immediately preceding year for any increase in the actual number of eligible pupils above the number on which the state aid in section 163.031 was calculated. Said adjustment shall be made in the manner providing for correction of errors under subsection 1 of this section.

3. (1) For any district which has, for at least five years immediately preceding the year in which the error is discovered, adopted a calendar for the school term in which elementary schools are in session for twelve months of each calendar year, any error made in the apportionment of state aid to such district because of a difference between the actual number of eligible pupils and the estimated number of eligible pupils shall be corrected as provided in section 163.091 and subsection 1 of this section, except that if the amount paid exceeds the amount to which the district was actually entitled by more than five percent and the district provides written application to the state board requesting that the deductions be made pursuant to subdivision (2) of this subsection, then the amounts shall be deducted pursuant to subdivision (2) of this subsection.

(2) For deductions made pursuant to this subdivision, interest at the rate of six percent shall be charged on the excess and shall be included in the amount deducted and the total amount of such excess plus accrued interest shall be deducted from the district's apportionment in equal monthly amounts beginning with the succeeding school year and extending for a period of months specified by the district in its written request and no longer than sixty months.

4. For the purposes of distribution of state school aid pursuant to section 163.031, a school district may elect to use the district's equalized assessed valuation for the preceding year, or an estimate of the current year's assessed valuation if the current year's equalized assessed valuation is estimated to be more than ten percent less than the district's equalized assessed valuation for the preceding year. A district shall give prior notice to the department of its intention to use the

current year's assessed valuation pursuant to this subsection. Any error made in the apportionment of state aid because of a difference between the actual equalized assessed valuation for the current year and the estimated equalized assessed valuation for the current year shall be corrected as provided in section 163.091, except that if the amount paid to a district estimating current equalized assessed valuation exceeds the amount to which the district was actually entitled, interest at the rate of six percent shall be charged on the excess and shall be added to the amount to be deducted from the district's apportionment the next succeeding year.

5. For the purposes of distribution of state school aid pursuant to section 163.031, a school district with ten percent or more of its assessed valuation that is owned by one person or corporation as commercial or personal property who is delinquent in a property tax payment may elect, after receiving notice from the county clerk on or before March fifteenth, except in the year enacted, that more than ten percent of its current taxes due the preceding December thirty-first by a single property owner are delinquent, to use on line 2 of the state aid formula the district's equalized assessed valuation for the preceding year or the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent. To qualify for use of the actual assessed valuation of the year for which the taxes are delinquent less the assessed valuation of property for which the current year's property tax is delinquent, a district must notify the department of elementary and secondary education on or before April first, except in the year enacted, of the current year amount of delinquent taxes, the assessed valuation of such property for which delinquent taxes are owed and the total assessed valuation of the district for the year in which the taxes were due but not paid. Any district giving such notice to the department of elementary and secondary education shall present verification of the accuracy of such notice obtained from the clerk of the county levying delinquent taxes. When any of the delinquent taxes identified by such notice are paid during a four-year period following the due date, the county clerk shall give notice to the district and the department of elementary and secondary education, and state aid paid to the district shall be reduced by an amount equal to the delinquent taxes received plus interest. The reduction in state aid shall occur over a period not to exceed five years and the interest rate on excess state aid not refunded shall be six percent annually.

6. If a district receives state aid based on equalized assessed valuation as determined by subsection 5 of this section and if prior to such notice the district was paid state aid pursuant to subdivision (2) of subsection 5 of section 163.031, the amount of state aid paid during the year of such notice and the first year following shall equal the sum of state aid paid pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 plus the difference between the state aid amount being paid after such notice minus the amount of state aid the district would have received pursuant to line 1 minus line 10 as defined in subsections 1, 2, 3 and 6 of section 163.031 before such notice. To be eligible to receive state aid based on this provision the district must levy during the first year following such notice at least the maximum levy permitted school districts by article X, section 11(b) of the Missouri Constitution and have a voluntary rollback of its tax rate which is no greater than one cent per one hundred dollars assessed valuation.

165.301. SELECTION OF DEPOSITARIES IN METROPOLITAN DISTRICTS. — 1. Subject to the provisions of section 110.030, RSMo, the board of education in each metropolitan district [in each year] shall **at least once every five years** advertise for bids from the banking institutions in the city for the deposits of the board of education [for the succeeding fiscal year,] to be secured as provided in sections 110.010 and 110.020, RSMo. The bids shall specify the rate of interest to be allowed to the board on the deposits and the nature of the security offered. The deposits shall be awarded [annually] to the banking institutions that offer, with the required security, the highest rate of interest therefor. The board may select as many depositaries for its deposits as it deems necessary and the board shall cause contracts [for the ensuing year] to be made with the banking institutions receiving award of deposits. The board shall cause all funds received to be

paid into the designated depositories, allocating funds to the depositories, if more than one depository has been designated, as the board deems proper.

2. The president of the board, [each year] immediately after the selection of the depository or depositories of the school moneys [for the succeeding year,] shall notify the treasurer of the state of Missouri and the collector of school taxes in the city of the name of the depository to which they are to make all payments of money apportioned, belonging to or distributed to the board; and the officers upon making deposits shall take from the depository duplicate receipts therefor, one of which shall be retained by the officer making the deposits and one delivered to the treasurer of the board.

167.020. REGISTRATION REQUIREMENTS — RESIDENCY — HOMELESS CHILD OR YOUTH DEFINED — RECOVERY OF COSTS, WHEN — RECORDS TO BE REQUESTED, PROVIDED, WHEN. — 1. As used in this section, the term "homeless child" shall mean a person less than twenty-one years of age who lacks a fixed, regular and adequate nighttime residence, including a child who:

(1) Is living on the street, in a car, tent, abandoned building or some other form of shelter not designed as a permanent home;

(2) Is living in a community shelter facility;

(3) Is living in transitional housing for less than one full year.

2. In order to register a pupil, the parent or legal guardian of the pupil or the pupil himself or herself shall provide, at the time of registration, one of the following:

(1) Proof of residency in the district. Except as otherwise provided in section 167.151, the term "residency" shall mean that a person both physically resides within a school district and is domiciled within that district. The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian; or

(2) Proof that the person registering the student has requested a waiver under subsection 3 of this section within the last forty-five days. In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within [three] **five** working days of the request to register and determine whether or not the pupil may register.

3. Any person subject to the requirements of subsection 2 of this section may request a waiver from the district board of any of those requirements on the basis of hardship or good cause. Under no circumstances shall athletic ability be a valid basis of hardship or good cause for the issuance of a waiver of the requirements of subsection 2 of this section. The district board shall convene a hearing as soon as possible, but no later than forty-five days after receipt of the waiver request made under this subsection or the waiver request shall be granted. The district board may grant the request for a waiver of any requirement of subsection 2 of this section. The district board may also reject the request for a waiver in which case the pupil shall not be allowed to register. Any person aggrieved by a decision of a district board on a request for a waiver under this subsection may appeal such decision to the circuit court in the county where the school district is located.

4. Any person who knowingly submits false information to satisfy any requirement of subsection 2 of this section is guilty of a class A misdemeanor.

5. In addition to any other penalties authorized by law, a district board may file a civil action to recover, from the parent, military guardian or legal guardian of the pupil, the costs of school attendance for any pupil who was enrolled at a school in the district and whose parent, military guardian or legal guardian filed false information to satisfy any requirement of subsection 2 of this section.

6. Subsection 2 of this section shall not apply to a pupil who is a homeless child or a pupil attending a school not in the pupil's district of residence as a participant in an interdistrict transfer

program established under a court-ordered desegregation program, a pupil who is a ward of the state and has been placed in a residential care facility by state officials, a pupil who has been placed in a residential care facility due to a mental illness or developmental disability, a pupil attending a school pursuant to sections 167.121 and 167.151, a pupil placed in a residential facility by a juvenile court, a pupil with a disability identified under state eligibility criteria if the student is in the district for reasons other than accessing the district's educational program, or a pupil attending a regional or cooperative alternative education program or an alternative education program on a contractual basis.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 7 of section 160.261, RSMo, from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g (b)(1)(E).

167.031. SCHOOL ATTENDANCE COMPULSORY, WHO MAY BE EXCUSED — NONATTENDANCE, PENALTY — HOME SCHOOL, DEFINITION, REQUIREMENTS — SCHOOL YEAR DEFINED — DAILY LOG, DEFENSE TO PROSECUTION — COMPULSORY ATTENDANCE AGE FOR THE DISTRICT DEFINED. — 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven [and sixteen] years **and the compulsory attendance age for the district** is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program of academic instruction shall cause such child to attend the academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven [and sixteen] years of age **and the compulsory attendance age for the district** shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends; except that

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen [and sixteen] years of age **and the compulsory attendance age for the district** may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action; or

(3) A child between five and seven years of age shall be excused from attendance at school if a parent, guardian or other person having charge, control or custody of the child makes a written request that the child be dropped from the school's rolls.

2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether incorporated or unincorporated, that:

(a) Has as its primary purpose the provision of private or religious-based instruction;
(b) Enrolls pupils between the ages of seven [and sixteen] years **and the compulsory attendance age for the district**, of which no more than four are unrelated by affinity or consanguinity in the third degree; and

(c) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction;

(2) As evidence that a child is receiving regular instruction, the parent shall, **except as otherwise provided in this subsection**:

(a) Maintain the following records:

a. A plan book, diary, or other written record indicating subjects taught and activities engaged in; and

b. A portfolio of samples of the child's academic work; and

c. A record of evaluations of the child's academic progress; or

d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

(b) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school location;

(3) The requirements of subdivision (2) of this subsection shall not apply to any pupil above the age of sixteen years.

3. Nothing in this section shall require a private, parochial, parish or home school to include in its curriculum any concept, topic, or practice in conflict with the school's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all departments or agencies of the state of Missouri shall be prohibited from dictating through rule, regulation or other device any statewide curriculum for private, parochial, parish or home schools.

4. A school year begins on the first day of July and ends on the thirtieth day of June following.

5. The production by a parent of a daily log showing that a home school has a course of instruction which satisfies the requirements of this section **or, in the case of a pupil over the age of sixteen years who attended a metropolitan school district the previous year, a written statement that the pupil is attending home school in compliance with this section** shall be a defense to any prosecution under this section and to any charge or action for educational neglect brought pursuant to chapter 210, RSMo.

6. As used in sections 167.031 to 167.051, the term "compulsory attendance age for the district" shall mean:

(1) **Seventeen years of age for any metropolitan school district for which the school board adopts a resolution to establish such compulsory attendance age; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted; and**

(2) **Sixteen years of age in all other cases. The school board of a metropolitan school district for which the compulsory attendance age is seventeen years may adopt a resolution to lower the compulsory attendance age to sixteen years; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted.**

167.051. COMPULSORY ATTENDANCE OF PART-TIME SCHOOLS. — 1. If a school board establishes part-time schools or classes for children under [sixteen] **seventeen** years of age, lawfully engaged in any regular employment, every parent, guardian or other person having charge, control or custody of such a child shall cause the child to attend the school not less than four hours a week between the hours of eight o'clock in the morning and five o'clock in the evening during the school year of the part-time classes.

2. All children who are under eighteen years of age, who have not completed the elementary school course in the public schools of Missouri, or its equivalent, and who are not attending regularly any day school shall be required to attend regularly the part-time classes not less than four hours a week between the hours of eight o'clock in the morning and five o'clock in the afternoon during the entire year of the part-time classes.

167.052. APPLICABILITY OF COMPULSORY ATTENDANCE AND PART-TIME SCHOOL REQUIREMENTS FOR METROPOLITAN SCHOOL DISTRICTS. — The provisions of sections 167.031 and 167.051 affecting a metropolitan school district shall be effective for the school year beginning 2007-2008 and shall terminate after the school year ending 2011-2012.

167.166. PROHIBITION ON STRIP SEARCHES, EXCEPTIONS — STRIP SEARCH DEFINED — VIOLATION, PENALTY — PROHIBITION ON REMOVAL OF CERTAIN ITEMS NOT DEEMED DISRUPTIVE. — 1. Except as provided in subsections 2 and 3 of this section, no employee of or volunteer at any public school or charter school within this state shall perform a strip search, as that term is defined in section 544.193, RSMo, of any student of any such school. However, strip searches may be conducted by, or under the authority of, a commissioned law enforcement officer.

2. A student may be strip searched by a school employee only if a commissioned law enforcement officer is not immediately available and if the school employee reasonably believes that a student possesses a weapon, explosive, or substance that poses an imminent threat of physical harm to himself or herself or another person.

3. For the purposes of this section, the term "strip search" shall not include the removal of clothing in order to investigate the potential abuse or neglect of a student; give medical attention to a student; provide health services to a student; or screen a student for medical conditions.

4. If a student is strip searched by an employee of a school or a commissioned law enforcement officer, the district will attempt to notify the student's parent or guardian as soon as possible.

5. Any employee of a public school or charter school who violates the provisions of subsections 1 to 4 of this section shall be immediately suspended without pay, pending an evidentiary hearing when such employee is entitled by statute or contract to such hearing. If an employee is not entitled to such evidentiary hearing, the employee shall be suspended pending completion of due process or further disciplinary action as provided in the district's personnel policies, as applicable.

6. For the purposes of subsections 1 to 5 of this section, the term "employee" shall include all temporary, part-time, and full-time employees of a public school or charter school.

7. No employee of or volunteer in or school board member of or school district administrator of a public school or charter school shall direct a student to remove an emblem, insignia, or garment, including a religious emblem, insignia, or garment, as long as such emblem, insignia, or garment is worn in a manner that does not promote disruptive behavior.

167.171. SUMMARY SUSPENSION OF PUPIL — APPEAL — GROUNDS FOR SUSPENSION — PROCEDURE — CONFERENCE REQUIRED, WHEN — STATEWIDE SUSPENSION, WHEN. — 1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for a period not to exceed ten school days and by the superintendent of schools for a period not to exceed one hundred and eighty school days. In case of a suspension by the superintendent for more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial care may appeal the decision of the superintendent to the board or to a committee of board members appointed

by the president of the board which shall have full authority to act in lieu of the board. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to it a full report in writing of the facts relating to the suspension, the action taken by the superintendent and the reasons therefor and the board, upon request, shall grant a hearing to the appealing party to be conducted as provided in section 167.161.

2. No pupil shall be suspended unless:

(1) The pupil shall be given oral or written notice of the charges against such pupil;
(2) If the pupil denies the charges, such pupil shall be given an oral or written explanation of the facts which form the basis of the proposed suspension;

(3) The pupil shall be given an opportunity to present such pupil's version of the incident;
and

(4) In the event of a suspension for more than ten school days, where the pupil gives notice that such pupil wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, or of the district superintendent, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

3. No school board shall readmit or enroll a pupil properly suspended for more than ten consecutive school days for an act of school violence as defined in subsection 2 of section 160.261, RSMo, regardless of whether or not such act was committed at a public school or at a private school in this state, provided that such act shall have resulted in the suspension or expulsion of such pupil in the case of a private school, or otherwise permit such pupil to attend school without first holding a conference to review the conduct that resulted in the expulsion or suspension and any remedial actions needed to prevent any future occurrences of such or related conduct. The conference shall include the appropriate school officials including any teacher employed in that school or district directly involved with the conduct that resulted in the suspension or expulsion, the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care, custody or control of the pupil. The school board shall notify in writing the parents or guardians and all other parties of the time, place, and agenda of any such conference. Failure of any party to attend this conference shall not preclude holding the conference. Notwithstanding any provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular program of instruction if:

(1) Such pupil has been convicted of; or

(2) An indictment or information has been filed alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(3) A petition has been filed pursuant to section 211.091, RSMo, alleging that the pupil has committed one of the acts enumerated in subdivision (4) of this subsection to which there has been no final judgment; or

(4) The pupil has been adjudicated to have committed an act which if committed by an adult would be one of the following:

(a) First degree murder under section 565.020, RSMo;

(b) Second degree murder under section 565.021, RSMo;

(c) First degree assault under section 565.050, RSMo;

(d) Forcible rape under section 566.030, RSMo;

(e) Forcible sodomy under section 566.060, RSMo;

(f) **Statutory rape under section 566.032, RSMo;**

(g) **Statutory sodomy under section 566.062, RSMo;**

(h) Robbery in the first degree under section 569.020, RSMo;

[(g)] (i) Distribution of drugs to a minor under section 195.212, RSMo;

[(h)] (j) Arson in the first degree under section 569.040, RSMo;

[(i)] **(k)** Kidnapping, when classified as a class A felony under section 565.110, RSMo. Nothing in this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the above acts. This subsection shall not apply to a student with a disability, as identified under state eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the student's disability. Nothing in this subsection shall be construed to prohibit a school district which provides an alternative education program from enrolling a pupil in an alternative education program if the district determines such enrollment is appropriate.

4. If a pupil is attempting to enroll in a school district during a suspension or expulsion from another in-state or out-of-state school district including a private, charter or parochial school or school district, a conference with the superintendent or the superintendent's designee may be held at the request of the parent, court-appointed legal guardian, someone acting as a parent as defined by rule in the case of a special education student, or the pupil to consider if the conduct of the pupil would have resulted in a suspension or expulsion in the district in which the pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee that such conduct would have resulted in a suspension or expulsion in the district in which the pupil is enrolling or attempting to enroll, the school district may make such suspension or expulsion from another school or district effective in the district in which the pupil is enrolling or attempting to enroll. Upon a determination by the superintendent or the superintendent's designee that such conduct would not have resulted in a suspension or expulsion in the district in which the student is enrolling or attempting to enroll, the school district shall not make such suspension or expulsion effective in its district in which the student is enrolling or attempting to enroll.

168.104. DEFINITIONS. — The following words and phrases when used in sections 168.102 to 168.130, except in those instances where the context indicates otherwise, mean:

(1) "Board of education", the school board or board of directors of a school district, except a metropolitan school district, having general control of the affairs of the district;

(2) "Demotion", any reduction in salary or transfer to a position carrying a lower salary, except on request of a teacher, other than any change in salary applicable to all teachers or all teachers in a classification;

(3) "Indefinite contract", every contract heretofore or hereafter entered into between a school district and a permanent teacher;

(4) "Permanent teacher", any teacher who has been employed or who is hereafter employed as a teacher in the same school district for five successive years and who has continued or who thereafter continues to be employed as a teacher by the school district or any supervisor of teachers who was employed as a teacher in the same school district for at least five successive years prior to becoming a supervisor of teachers and who continues thereafter to be employed as a certificated employee by the school district; except that, when a permanent teacher resigns or is permanently separated from employment by a school district, and is afterwards reemployed by the same school district, reemployment for the first school year does not constitute an indefinite contract but if he is employed for the succeeding year, the employment constitutes an indefinite contract; and except that any teacher employed under a part-time contract by a school district shall accrue credit toward permanent status on a prorated basis. Any permanent teacher who is promoted with his consent to a supervisory position including principal or assistant principal, or is first employed by a district in a supervisory position including principal or assistant principal, shall not have permanent status in such position but shall retain tenure in the position previously held within the district, or, after serving two years as principal or assistant principal, shall have tenure as a permanent teacher of that system;

(5) "Probationary teacher", any teacher as herein defined who has been employed in the same school district for five successive years or less. In the case of any probationary teacher who has been employed in any other school system as a teacher for two or more years, the board of education shall waive one year of his probationary period;

(6) "School district", every school district in this state, except metropolitan school district as defined in section 162.571, RSMo;

(7) "Teacher", any employee of a school district, except a metropolitan school district, regularly required to be certified under laws relating to the certification of teachers, except superintendents and assistant superintendents **but including certified teachers who teach at the pre-kindergarten level in a non-metropolitan public school.**

168.124. BOARD MAY PLACE ON LEAVE — PROVISIONS GOVERNING — SALARY TO BE PAID TO AFFECTED TEACHER, WHEN. — 1. The board of education of a school district may place on leave of absence as many teachers as may be necessary because of a decrease in pupil enrollment, school district reorganization or the financial condition of the school district. In placing teachers on leave, the board of education shall be governed by the following provisions:

(1) No permanent teacher shall be placed on leave of absence while probationary teachers are retained in positions for which a permanent teacher is qualified;

(2) Permanent teachers shall be retained on the basis of performance-based evaluations and seniority (however, seniority shall not be controlling) within the field of specialization;

(3) Permanent teachers shall be reinstated to the positions from which they have been given leaves of absence, or if not available, to positions requiring like training and experience, or to other positions in the school system for which they are qualified by training and experience;

(4) No appointment of new teachers shall be made while there are available teachers on unrequested leave of absence who are properly qualified to fill such vacancies;

(5) A teacher placed on leave of absence may engage in teaching or another occupation during the period of such leave;

(6) The leave of absence shall not impair the tenure of a teacher;

(7) The leave of absence shall continue for a period of not more than three years unless extended by the board.

2. Should a board of education choose to utilize the mechanism for reducing teacher forces as provided in subsection 1 of this section in an attempt to manage adverse financial conditions caused at least partially by a withholding of, or a decrease or less than expected increase in, education appropriations, then the district additionally shall follow the provisions of subsection 3 of this section.

3. If a school district has an unrestricted combined ending fund balance of more than ten percent of current expenditures in its teachers' and incidental funds, and in the subsequent fiscal year such district, because of state appropriations, places a contracted teacher on leave of absence after forty days subsequent to the governor signing the elementary and secondary education appropriation bill, the district shall pay the affected teacher the greater of his or her salary for any days worked under the contract, or a sum equal to three thousand dollars.

168.126. PROBATIONARY TEACHERS, HOW TERMINATED — NOTICE, CONTENTS — REEMPLOYED, HOW. — 1. A board of education at a regular or special meeting may contract with and employ by a majority vote legally qualified probationary teachers for the school district. The contract shall be made by order of the board; shall specify the number of months school is to be taught and the wages per month to be paid; shall be signed by the probationary teacher and the president of the board, or a facsimile signature of the president may be affixed at his discretion; and the contract shall be attested by the secretary of the board by signature or facsimile. The board shall not employ one of its members as a teacher; nor shall any person be employed as a teacher who is related within the fourth degree to any board member, either by consanguinity or affinity, where the vote of the board member is necessary to the selection of the person.

2. If in the opinion of the board of education any probationary teacher has been doing unsatisfactory work, the board of education, through its authorized administrative representative,

shall provide the teacher with a written statement definitely setting forth his alleged incompetency and specifying the nature thereof, in order to furnish the teacher an opportunity to correct his fault and overcome his incompetency. If improvement satisfactory to the board of education has not been made within ninety days of the receipt of the notification, the board of education may terminate the employment of the probationary teacher immediately or at the end of the school year. Any motion to terminate the employment of a probationary teacher shall include only one person and must be approved by a majority of the members of the board of education. A tie vote thereon constitutes termination. On or before the fifteenth day of April in each school year, the board of education shall notify in writing a probationary teacher who will not be retained by the school district of the termination of his employment. Upon request, the notice shall contain a concise statement of the reason or reasons the employment of the probationary teacher is being terminated. **If the reason for the termination is due to a decrease in pupil enrollment, school district reorganization, or the financial condition of the school district, then the district shall in all cases issue notice to the teacher expressly declaring such as the reason for such termination.** Nothing contained in this section shall give rise to a cause of action not currently cognizable at law by a probationary teacher for any reason given in said writing so long as the board issues the letter in good faith without malice, but an action for actual damages may be maintained by any person for the deprivation of a right conferred by this act.

3. Any probationary teacher who is not notified of the termination of his employment shall be deemed to have been appointed for the next school year, under the terms of the contract for the preceding year. A probationary teacher who is informed of reemployment by written notice shall be tendered a contract on or before the fifteenth day of May, and shall within fifteen days thereafter present to the employing board of education a written acceptance or rejection of the employment tendered, and failure of such teachers to present the acceptance within such time constitutes a rejection of the board's offer. A contract between a probationary teacher and a board of education may be terminated or modified at any time by the mutual consent of the parties thereto.

168.211. SUPERINTENDENT OF SCHOOLS, APPOINTMENT, TERM — SUPERINTENDENT TO APPOINT A TREASURER AND COMMISSIONER OF SCHOOL BUILDINGS AND ASSOCIATE AND ASSISTANT SUPERINTENDENTS — BOND — POWERS OF SUPERINTENDENT (METROPOLITAN DISTRICTS). — 1. In metropolitan districts the superintendent of schools shall be appointed by the board of education for a term of one to four years, during which term his compensation shall not be reduced. [In the event the board shall dismiss the superintendent during said term, he shall be paid compensation only for the balance of the current year.] The superintendent of schools shall appoint, with the approval of the board, a treasurer, a commissioner of school buildings and he shall serve at the pleasure of the superintendent of schools and as many associate and assistant superintendents as he deems necessary, whose compensation shall be fixed by the board. The superintendent of schools shall give bond in the sum that the board requires but not less than fifty thousand dollars. No employee or agent of the board shall be a member of the board.

2. The superintendent of schools shall have general supervision, subject to the control of the board, of the school system, including its various departments and physical properties, courses of instruction, discipline and conduct of the schools, textbooks and studies. All appointments, promotions and transfers of teachers, and introduction and changes of textbooks and apparatus, shall be made by the superintendent with the approval of the board. All appointments and promotions of teachers shall be made upon the basis of merit, to be ascertained, as far as practicable, in cases of appointment, by examination, and in cases of promotion, by length and character of service. Examinations for appointment shall be conducted by the superintendent under regulations to be made by the board. He shall make such reports to the board that it directs or the rules provide.

3. The superintendent of schools shall have general supervision, subject to the approval of the board, of all school buildings, apparatus, equipment and school grounds and of their

construction, installation, operation, repair, care and maintenance; the purchasing of all supplies and equipment; the operation of the school lunchrooms; the administration of examinations for the appointment and promotion of all employees of the school system; and the preparation and administration of the annual budget for the school system. Subject to the approval of the board of education as to number and salaries, the superintendent may appoint as many employees as are necessary for the proper performance of his duties.

4. The board may grant a leave of absence to the superintendent of schools, and may remove him from office by vote of a majority of its members.

5. The commissioner of school buildings shall be a person qualified by reason of education, experience and general familiarity with buildings and personnel to assume the following responsibilities and duties. Subject to the control of the superintendent of schools, he shall exercise supervision over all school buildings, machinery, heating systems, equipment, school grounds and other buildings and premises of the board of education and the construction, installation, operation, repair, care and maintenance related thereto and the personnel connected therewith; the purchasing of building supplies and equipment and such other duties as may be assigned to him by board rules or regulations, provided that this provision shall not apply to any commissioner of school buildings serving on October 13, 1967.

168.500. CAREER AND TEACHER EXCELLENCE PLAN, CAREER LADDER FORWARD FUNDING FUND ESTABLISHED — GENERAL ASSEMBLY TO APPROPRIATE FUNDS — TERMINATION OF FUND — PARTICIPATION TO BE VOLUNTARY — QUALIFICATIONS — SPEECH PATHOLOGISTS ON CAREER PROGRAM, WHEN. — 1. For the purpose of providing career pay, which shall be a salary supplement, for public school teachers, which for the purpose of sections 168.500 to 168.515 shall include classroom teachers, librarians, guidance counselors and certificated teachers who hold positions as school psychological examiners, parents as teachers educators, school psychologists, special education diagnosticians and speech pathologists, and are on the district salary schedule, there is hereby created and established a career advancement program which shall be known as the "Missouri Career Development and Teacher Excellence Plan", hereinafter known as the "career plan or program". Participation by local school districts in the career advancement program established under this section shall be voluntary. The career advancement program is a matching fund program of variable match rates. The general assembly shall make an annual appropriation to the excellence in education fund established under section 160.268, RSMo, for the purpose of providing the state's portion for the career advancement program. The "Career Ladder Forward Funding Fund" is hereby established in the state treasury. Beginning with fiscal year 1998 and until the career ladder forward funding fund is terminated pursuant to this subsection, the general assembly shall appropriate funds to the career ladder forward funding fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. All interest or other gain received from investment of moneys in the fund shall be credited to the fund. All funds deposited in the fund shall be maintained in the fund until such time as the balance in the fund at the end of the fiscal year is equal to or greater than the appropriation for the career ladder program for the following year, at which time all such revenues shall be used to fund, in advance, the career ladder program for such following year and the career ladder forwarding funding fund shall thereafter be terminated.

2. The department of elementary and secondary education, at the direction of the commissioner of education, shall study and develop model career plans which shall be made available to the local school districts. These state model career plans shall:

- (1) Contain three steps or stages of career advancement;
 - (2) Contain a detailed procedure for the admission of teachers to the career program;
 - (3) Contain specific criteria for career step qualifications and attainment. These criteria shall clearly describe the minimum number of professional responsibilities required of the teacher at each stage of the plan and shall include reference to classroom performance evaluations performed pursuant to section 168.128;
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(4) Be consistent with the teacher certification process recommended by the Missouri advisory council of certification for educators and adopted by the department of elementary and secondary education;

(5) Provide that public school teachers in Missouri shall become eligible to apply for admission to the career plans adopted under sections 168.500 to 168.515 after five years of public school teaching in Missouri. All teachers seeking admission to any career plan shall, as a minimum, meet the requirements necessary to obtain the first renewable professional certificate as provided in section 168.021;

(6) Provide procedures for appealing decisions made under career plans established under sections 168.500 to 168.515.

3. The commissioner of education shall cause the department of elementary and secondary education to establish guidelines for all career plans established under this section, and criteria that must be met by any school district which seeks funding for its career plan.

4. A participating local school district may have the option of implementing a career plan developed by the department of elementary and secondary education or a local plan which has been developed with advice from teachers employed by the district and which has met with the approval of the department of elementary and secondary education. In approving local career plans, the department of elementary and secondary education may consider provisions in the plan of the local district for recognition of teacher mobility from one district to another within this state.

5. The career plans of local school districts shall not discriminate on the basis of race, sex, religion, national origin, color, creed, or age. Participation in the career plan of a local school district is optional, and any teacher who declines to participate shall not be penalized in any way.

6. In order to receive funds under this section, a school district which is not subject to section 162.920, RSMo, must have a total levy for operating purposes which is in excess of the amount allowed in section 11(b) of article X of the Missouri Constitution; and a school district which is subject to section 162.920, RSMo, must have a total levy for operating purposes which is equal to or in excess of twenty-five cents on each hundred dollars of assessed valuation.

7. The commissioner of education shall cause the department of elementary and secondary education to regard a speech pathologist who holds both a valid certificate of license to teach and a certificate of clinical competence to have fulfilled the standards required to be placed on stage III of the career program, provided that such speech pathologist has been employed by a public school in Missouri for at least five years and is approved for placement at such stage III by the local school district.

168.515. SALARY SUPPLEMENT FOR PARTICIPANTS IN CAREER PLAN — METHOD OF DISTRIBUTION — AMOUNTS — MATCHING FUNDS, FORMULA, CONTRIBUTIONS — BONUS CONTRIBUTION, WHEN — REVIEW OF CAREER PAY — TAX LEVY AUTHORIZED, WHEN — USE OF FUNDS — EXCEPTION TO CONTRIBUTION. — 1. Each teacher selected to participate in a career plan established under sections 168.500 to 168.515, who meets the requirements of such plan, shall receive a salary supplement, the state's share of which shall be distributed under section 163.031, RSMo, equal to the following amounts [multiplied by the proration factor] applied to the career ladder entitlement of line 15 of subsection 6 of section 163.031, RSMo:

(1) Career stage I teachers may receive up to an additional one thousand five hundred dollars per school year;

(2) Career stage II teachers may receive up to an additional three thousand dollars per school year;

(3) Career stage III teachers may receive up to an additional five thousand dollars per school year.

All teachers within each stage within the same school district shall receive equal salary supplements.

2. The state shall make payments pursuant to section 163.031, RSMo, to the local school district for the purpose of reimbursing the local school district for the payment of any salary supplements provided for in this section, subject to the availability of funds as appropriated each year and distributed on a variable match formula which shall be based on equalized assessed valuation of the district for the second preceding school year. A district's equalized assessed valuation shall be multiplied by the district income factor defined in section 163.011, RSMo, and shall be known as the adjusted equalized assessed valuation.

3. In distributing these matching funds, school districts shall be ranked by the adjusted equalized assessed valuation for the second preceding school year per eligible pupil from the highest to the lowest and divided into three groups. Group one shall contain the highest twenty-five percent of all public school districts, groups two and three combined shall contain the remaining seventy-five percent of all public school districts. The districts in groups two and three shall be rank ordered from largest to smallest based on enrollment as of the last Wednesday in September during the second preceding school year, group two shall contain twenty-five percent of all public school districts that are larger on the enrollment based rank ordered list and group three shall contain the remaining fifty percent of all public school districts. Pursuant to subsection 4 of this section, districts in group one shall receive forty percent state funding and shall contribute sixty percent local funding, group two shall receive fifty percent state funding and shall contribute fifty percent local funding and group three shall receive sixty percent state funding and shall contribute forty percent local funding.

4. The incremental groups are as follows:

	Percentage Group of Districts	Percentage of State Funding	Percentage of Local Funding
1	25%	40%	60%
2	25%	50%	50%
3	50%	60%	40%

5. Beginning in the 1996-97 school year, any school district in any group which participated in the career ladder program in 1995-96 and paid less than the local funding percentage required by subsection 4 of this section shall increase its local share of career ladder costs by five percentage points from the preceding year until the district pays the percentage share of cost required by subsection 4 of this section, and in no case shall the local funding percentage be increased by a greater amount for any year. For any district, the state payment shall not exceed the local payment times the state percentage share divided by the local percentage share. Any district not participating in the 1995-96 school year or any district which interrupts its career ladder program for any subsequent year shall enter the program on the cost-sharing basis required by subsection 4 of this section.

6. Not less than every fourth year, beginning with calendar year 1988, the general assembly, through the joint committee established under section 160.254, RSMo, shall review the amount of the career pay provided for in this section to determine if any increases are necessary to reflect the increases in the cost of living which have occurred since the salary supplements were last reviewed or set.

7. To participate in the salary supplement program established under this section, a school district may submit to the voters of the district a proposition to increase taxes for this purpose. If a school district's current tax rate ceiling is at or above the rate from which an increase would require a two-thirds majority, the school board may submit to the voters of the district a proposition to reduce or eliminate the amount of the levy reduction resulting from section 164.013, RSMo. If a majority of the voters voting thereon vote in favor of the proposition, the board may certify that seventy-five percent of the revenue generated from this source shall be used to implement the salary supplement program established under this section.

8. In no case shall a school district use state funds received under this section nor local revenue generated from a tax established under subsection 7 of this section to comply with the minimum salary requirements for teachers established pursuant to section 163.172, RSMo.

9. Beginning in the 1996-97 school year, for any teacher who participated in the career program in the 1995-96 school year, continues to participate in the program thereafter, and remains qualified to receive career pay pursuant to section 168.510, the state's share of the teacher's salary supplement shall continue to be the percentage paid by the state in the 1995-96 school year, notwithstanding any provisions of subsection 4 of this section to the contrary, and the state shall continue to pay such percentage of the teacher's salary supplement until any of the following occurs:

- (1) The teacher ceases his or her participation in the program; or
- (2) The teacher suspends his or her participation in the program for any school year after the 1995-96 school year. If the teacher later resumes participation in the program, the state funding shall be subject to the provisions of subsection 4 of this section.

171.053. PARTICIPATION IN SANCTIONED PROGRAM ACTIVITIES, EXCUSED ABSENCES ALLOWED — STATE AID, COMPUTATION FOR SUCH ACTIVITIES. — 1. The general assembly hereby finds and declares that:

(1) The Future Farmers of America Organization (FFA Organization), Family, Career, and Community Leaders of America (FCCLA) and 4-H programs in the state and the organized competitions held as a part of the Missouri state fair involve an education and learning process that is not otherwise available in the regular curriculum of secondary education in Missouri;

(2) The principles and practices learned by students in such programs are highly beneficial to students;

(3) Participation in such programs should be encouraged; and

(4) One method of encouraging participation in such programs is to allow such participation to be counted as school attendance for the purpose of determining state school aid.

2. It is the purpose and intent of this section to assure that participation of students in sanctioned activities of such programs be allowed to such extent as may be determined appropriate by the school boards of the various school districts.

3. Any school district which allows an excused absence for athletics or any other extra-curricular school activity shall allow, pursuant to its written policy and with the approval of the responsible sponsoring school employee, any student enrolled in the district to use such regularly scheduled instructional time as is reasonably necessary for such student to participate in an officially-sanctioned activity of any such program; provided, if the program is not a part of the Missouri state fair or 4-H, that such program has a local chapter which is officially recognized by the student's school.

4. For the purpose of distributing state school aid pursuant to section 163.031, RSMo, a student who is participating in an officially-sanctioned activity of any such program, as provided pursuant to subsection 3 of this section, shall be considered to be attending regularly scheduled instruction in the district and such hours of participation occurring during the regular school day shall be included in the district's calculation of average daily attendance, as defined in section 163.011, RSMo.

172.360. STUDENTS ADMISSIBLE — TUITION AND FEES. — All youths, resident of the state of Missouri, [over the age of sixteen years,] shall be admitted to all the privileges and advantages of the various classes of all the departments of the University of the State of Missouri; provided, that each applicant for admission therein shall possess such scholastic attainments and mental and moral qualifications as shall be prescribed in rules adopted and established by the board of curators; and provided further, that the board of curators may charge and collect reasonable tuition and other fees necessary for the maintenance and operation of all departments of the university, as they may deem necessary.

209.321. LICENSE REQUIRED TO PRACTICE INTERPRETING — CERTAIN PROFESSIONS EXEMPT — PRACTICE TO BE LIMITED TO TRAINING AND EDUCATION — NOT CONSIDERED INTERPRETING, WHEN — OUT-OF-STATE LICENSES, TEMPORARY INTERPRETING PERMITTED — PROVISIONAL LICENSURE, CRITERIA. — 1. No person shall represent himself or herself as an interpreter or engage in the practice of interpreting as defined in section 209.285 in the state of Missouri unless such person is licensed as required by the provisions of sections 209.319 to 209.339.

2. A person registered, certified or licensed by this state, another state or any recognized national certification agent, acceptable to the committee that allows that person to practice any other occupation or profession in this state, is not considered to be interpreting if he or she is in performance of the occupation or profession for which he or she is registered, certified or licensed. The professions referred to in this subsection include, but are not limited to, physicians, psychologists, nurses, certified public accountants, architects and attorneys.

3. A licensed interpreter shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, experience and certification. An interpreter not trained in an area shall not practice in that area without obtaining additional relevant professional education, training and experience through an acceptable program as defined by rule by the Missouri commission for the deaf and hard of hearing.

4. A person is not considered to be interpreting pursuant to the provisions of this section if, in a casual setting and as defined by rule, a person is acting as an interpreter gratuitously or is engaged in interpreting incidental to traveling.

5. A person is not considered to be interpreting pursuant to the provisions of this section if a person is engaged as a telecommunications operator providing deaf relay service or operator services for the deaf.

6. A person is not considered to be interpreting under the provisions of this section if the person is currently enrolled in an interpreter training program which has been accredited by a certifying agency and approved by the committee. The training program shall offer a degree in interpreting from an accredited institution of higher education. Persons exempted under this provision shall engage only in activities and services that constitute part of a supervised course of study and shall clearly designate themselves by a title of the student, practicum student, student interpreter, trainee, or intern.

7. A person holding a current certification of license from another state or recognized national certification system deemed acceptable by the committee is not considered to be interpreting as defined in this chapter when temporarily present in the state for the purpose of providing interpreting services for a convention, conference, meeting, professional group, or educational field trip.

8. (1) The board for certification of interpreters shall grant a provisional certificate in education for any applicant who meets either of the following criteria:

(a) The applicant possesses a current valid certification in the Missouri interpreters certification system at either the novice or apprentice level and holds a valid license to provide interpreting services; or

(b) The applicant has submitted an application for certification in the Missouri interpreters certification system and an application for an interpreting license pursuant to sections 209.319 to 209.339 and has taken the written test and performance test or attests that he or she will complete the certification and licensure applications and take the written test within sixty days following the date of application for a provisional certificate in education and will complete the performance test within sixty days following passage of the written test.

(2) The board shall issue the provisional certificate in education within ten business days following receipt of a complete application.

(3) A provisional certificate issued under paragraph (a) of subdivision (1) of this subsection shall be valid for a term of three years and shall be renewed by the board,

upon request by the certificate holder, for one additional term of three years if the certificate holder is reevaluated during the first term of issuance and achieves a higher level of certification in the Missouri interpreter certification system.

(4) A provisional certificate issued under paragraph (b) of subdivision (1) of this subsection shall be valid for one year and shall be renewed, upon request by the certificate holder, pursuant to subdivision (3) of this subsection if the certificate holder is reevaluated during the term of issuance and achieves a certification in the Missouri interpreter certification system. Such renewed certificate shall be subject to the term length and renewal provisions of subdivision (3) of this subsection.

(5) A provisional certificate in education shall be limited to providing interpreters services in preschool, elementary and secondary school settings or as allowed by any other valid Missouri certification or license held by the individual.

(6) A provisional certificate in education may be revoked by the board if the person makes any misrepresentations or fails to fulfill any commitment made pursuant to paragraph (b) of subdivision (1) of this subsection, or violates the provisions of section 209.317 or 209.334 or breaks any of the ethical rules of conduct for interpreters as established by state rule or fails to obtain the necessary continuing education credits required for certification maintenance.

210.145. TELEPHONE HOTLINE FOR REPORTS ON CHILD ABUSE — DIVISION DUTIES, PROTOCOLS, LAW ENFORCEMENT CONTACTED IMMEDIATELY, INVESTIGATION CONDUCTED, WHEN, EXCEPTION — CHIEF INVESTIGATOR NAMED — FAMILY SUPPORT TEAM MEETINGS, WHO MAY ATTEND — REPORTER'S RIGHT TO RECEIVE INFORMATION — ADMISSIBILITY OF REPORTS IN CUSTODY CASES. — 1. The division shall establish and maintain an information system operating at all times, capable of receiving and maintaining reports. This information system shall have the ability to receive reports over a single, statewide toll-free number. Such information system shall maintain the results of all investigations, family assessments and services, and other relevant information.

2. Upon receipt of a report, the division shall immediately communicate such report to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

3. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation, or, which, if true, would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024 or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crime under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.037 or 573.045, RSMo, or an attempt to commit any such crimes. The local office shall provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

4. The local office of the division shall cause an investigation or family assessment and services approach to be initiated immediately or no later than within twenty-four hours of receipt of the report from the division, except in cases where the sole basis for the report is educational

neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. The division shall not meet with the child [at the child's school or child-care facility] **in any school building or child care facility building where abuse of such child is alleged to have occurred.** When the child is reported absent from the residence, the location and the well-being of the child shall be verified.

5. The director of the division shall name at least one chief investigator for each local division office, who shall direct the division response on any case involving a second or subsequent incident regarding the same subject child or perpetrator. The duties of a chief investigator shall include verification of direct observation of the subject child by the division and shall ensure information regarding the status of an investigation is provided to the public school district liaison. The public school district liaison shall develop protocol in conjunction with the chief investigator to ensure information regarding an investigation is shared with appropriate school personnel. The superintendent of each school district shall designate a specific person or persons to act as the public school district liaison. Should the subject child attend a nonpublic school the chief investigator shall notify the school principal of the investigation. Upon notification of an investigation, all information received by the public school district liaison or the school shall be subject to the provisions of the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g, and federal rule 34 C.F.R., Part 99.

6. The investigation shall include but not be limited to the nature, extent, and cause of the abuse or neglect; the identity and age of the person responsible for the abuse or neglect; the names and conditions of other children in the home, if any; the home environment and the relationship of the subject child to the parents or other persons responsible for the child's care; any indication of incidents of physical violence against any other household or family member; and other pertinent data.

7. When a report has been made by a person required to report under section 210.115, the division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, that may be pertinent.

8. Upon completion of the investigation, if the division suspects that the report was made maliciously or for the purpose of harassment, the division shall refer the report and any evidence of malice or harassment to the local prosecuting or circuit attorney.

9. Multidisciplinary teams shall be used whenever conducting the investigation as determined by the division in conjunction with local law enforcement. Multidisciplinary teams shall be used in providing protective or preventive social services, including the services of law enforcement, a liaison of the local public school, the juvenile officer, the juvenile court, and other agencies, both public and private.

10. If the appropriate local division personnel determine after an investigation has begun that completing an investigation is not appropriate, the division shall conduct a family assessment and services approach. The division shall provide written notification to local law enforcement prior to terminating any investigative process. The reason for the termination of the investigative process shall be documented in the record of the division and the written notification submitted to local law enforcement. Such notification shall not preclude nor prevent any investigation by law enforcement.

11. If the appropriate local division personnel determines to use a family assessment and services approach, the division shall:

(1) Assess any service needs of the family. The assessment of risk and service needs shall be based on information gathered from the family and other sources;

(2) Provide services which are voluntary and time-limited unless it is determined by the division based on the assessment of risk that there will be a high risk of abuse or neglect if the family refuses to accept the services. The division shall identify services for families where it is determined that the child is at high risk of future abuse or neglect. The division shall thoroughly document in the record its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect to the child. If the family continues to refuse voluntary services or the child needs to be protected, the division may commence an investigation;

(3) Commence an immediate investigation if at any time during the family assessment and services approach the division determines that an investigation, as delineated in sections 210.109 to 210.183, is required. The division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(4) Document at the time the case is closed, the outcome of the family assessment and services approach, any service provided and the removal of risk to the child, if it existed.

12. Within thirty days of an oral report of abuse or neglect, the local office shall update the information in the information system. The information system shall contain, at a minimum, the determination made by the division as a result of the investigation, identifying information on the subjects of the report, those responsible for the care of the subject child and other relevant dispositional information. The division shall complete all investigations within thirty days, unless good cause for the failure to complete the investigation is documented in the information system. If the investigation is not completed within thirty days, the information system shall be updated at regular intervals and upon the completion of the investigation. The information in the information system shall be updated to reflect any subsequent findings, including any changes to the findings based on an administrative or judicial hearing on the matter.

13. A person required to report under section 210.115 to the division shall be informed by the division of his right to obtain information concerning the disposition of his or her report. Such person shall receive, from the local office, if requested, information on the general disposition of his or her report. A person required to report to the division pursuant to section 210.115 may receive, if requested, findings and information concerning the case. Such release of information shall be at the discretion of the director based upon a review of the mandated reporter's ability to assist in protecting the child or the potential harm to the child or other children within the family. The local office shall respond to the request within forty-five days. The findings shall be made available to the mandated reporter within five days of the outcome of the investigation.

14. In any judicial proceeding involving the custody of a child the fact that a report may have been made pursuant to sections 210.109 to 210.183 shall not be admissible. However, nothing in this subsection shall prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made.

15. In any judicial proceeding involving the custody of a child where the court determines that the child is in need of services pursuant to subdivision (d) of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's parent, guardian or custodian shall not be entered into the registry.

16. The division of family services is hereby granted the authority to promulgate rules and regulations pursuant to the provisions of section 207.021, RSMo, and chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the

effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

302.272. SCHOOL BUS PERMIT, QUALIFICATIONS — PERMIT RENEWAL, WHEN — FEE — TEMPORARY PERMITS — GROUNDS FOR REFUSAL TO ISSUE OR RENEW PERMIT — CRIMINAL RECORD CHECKS OF APPLICANTS. — 1. No person shall operate any school bus owned by or under contract with a public school or the state board of education unless such driver has qualified for a school bus permit under this section and complied with the pertinent rules and regulations of the department of revenue. A school bus permit shall be issued to any applicant who meets the following qualifications:

(1) The applicant has a valid state license issued under this chapter or has a license valid in any other state;

(2) The applicant is at least twenty-one years of age;

(3) The applicant has passed a medical examination, including vision and hearing tests, as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the applicant shall pass the medical examination annually to maintain or renew the permit; and

(4) The applicant has successfully passed an examination for the operation of a school bus as prescribed by the director of revenue. The examination shall include, but need not be limited to, a written skills examination of applicable laws, rules and procedures, and a driving test in the type of vehicle to be operated. The test shall be completed in the appropriate class of vehicle to be driven. For purposes of this section classes of school buses shall comply with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

2. Except as otherwise provided in this section, a school bus permit shall be renewed every three years and shall require the applicant to provide a medical examination as specified in subdivision (3) of subsection 1 of this section and to successfully pass a written skills examination as prescribed by the director of revenue in consultation with the department of elementary and secondary education. If the applicant is at least seventy years of age, the school bus permit shall be renewed annually, and the applicant shall successfully pass the examination prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed permit, **provided that the background check, as contemplated by subsections 5 and 6 of this section, shall continue to be conducted on a renewing applicant's previously established three-year renewal schedule.** The director may waive the written skills examination on renewal of a school bus permit upon verification of the applicant's successful completion within the preceding twelve months of a training program which has been approved by the director in consultation with the department of elementary and secondary education and which is at least eight hours in duration with special instruction in school bus driving.

3. The fee for a new or renewed school bus permit shall be three dollars.

4. Upon the applicant's completion of the requirements of subsections 1, 2 and 3 of this section, the director of revenue shall issue a temporary school bus permit to the applicant until such time as a permanent school bus permit shall be issued following the record clearance as provided in subsection 6 of this section.

5. The director of revenue, to the best of the director's knowledge, shall not issue or renew a school bus permit to any applicant:

(1) Whose driving record shows that such applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified or whose driving record shows a history of moving vehicle violations;

(2) Who has pled guilty to or been found guilty of any felony or misdemeanor for violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution as defined by

chapter 567, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge;

(3) Who has pled guilty to or been found guilty of any felony involving robbery, arson, burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any federal, state, municipal or other court of similar jurisdiction within the preceding ten years of which the director has knowledge.

6. The department of social services or the Missouri highway patrol, whichever has access to applicable records, shall provide a record of clearance or denial of clearance for any applicant for a school bus permit for the convictions specified in subdivisions (2) and (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of clearance or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of Investigation any information which might aid the Missouri highway patrol in providing such record of clearance or denial of clearance. The department of social services or the Missouri highway patrol shall provide the record of clearance or denial of clearance within thirty days of the date requested, relying on information available at that time, except that the department of social services or the Missouri highway patrol shall provide any information subsequently discovered to the department of revenue.

393.310. CERTAIN GAS CORPORATIONS TO FILE SET OF EXPERIMENTAL TARIFFS WITH PSC, MINIMUM REQUIREMENTS — EXPIRATION DATE — EXTENSION OF TARIFFS. — 1. This section shall only apply to gas corporations as defined in section 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.

2. As used in this section, the following terms mean:

(1) "Aggregate", the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;

(2) "Commission", the Missouri public service commission; and

(3) "Eligible school entity" shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, RSMo, and shall also include, one year after July 11, 2002, and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.

3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.

4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

(1) Provide for the aggregate purchasing of natural gas supplies and pipeline transportation services on behalf of eligible school entities in accordance with aggregate purchasing contracts negotiated by and through a not-for-profit school association;

(2) Provide for the resale of such natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing of such gas supplies and transportation, plus all applicable distribution costs, plus an aggregation and balancing fee to be determined by the commission, not to exceed four-tenths of one cent per therm delivered during the first year; and

(3) Not require telemetry or special metering, except for individual school meters over one hundred thousand therms annually.

5. The commission may suspend the tariff as required pursuant to subsection 3 of this section for a period ending no later than November 1, 2002, and shall approve such tariffs upon finding that implementation of the aggregation program set forth in such tariffs will not have any

negative financial impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue at least equal to all incremental costs caused by the experimental aggregation program. Except as may be mutually agreed by the gas corporation and eligible school entities and approved by the commission, such tariffs shall not require eligible school entities to be responsible for pipeline capacity charges for longer than is required by the gas corporation's tariff for large industrial or commercial basic transportation customers.

6. The commission shall treat the gas corporation's pipeline capacity costs for associated eligible school entities in the same manner as for large industrial or commercial basic transportation customers, which shall not be considered a negative financial impact on the gas corporation, its other customers, or local taxing authorities, and the commission may adopt by order such other procedures not inconsistent with this section which the commission determines are reasonable or necessary to administer the experimental program.

7. This section shall terminate June 30, [2005] **2007**.

8. Tariffs in effect as of August 28, 2004, shall be extended until the termination date set in subsection 7 of this section.

SECTION 1. REIMBURSEMENT BY DEPARTMENT FOR COORDINATOR, WHEN. — The department of elementary and secondary education shall not reimburse a school district for more than one A+ program coordinator per one thousand two hundred fifty students; however a school with up to one thousand five hundred students shall be reimbursed for only one A+ program coordinator.

SECTION 2. CONTACT HOURS INCLUDED IN PROFESSIONAL DEVELOPMENT REQUIREMENTS FOR VOCATIONAL-TECHNICAL CERTIFICATION. — Professional development requirements pursuant to section 168.021, RSMo, for vocational-technical certification or successor certification shall include contact hours relating to the specific vocational-technical subject area for which the educator seeks certification.

SECTION 3. INTERNET WEB SITES, REQUIRED POSTINGS. — If any public school district hosts a district-sponsored Internet web site, that district shall post the following on such site:

- (1) A current version of that district's policy manual and all related documents; and**
- (2) A current version of that district's handbook, or, if the district has more than one handbook, a current version of all of that district's handbooks.**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to adequately protect children being interviewed by the state and to aid school finances, the repeal and reenactment of sections 163.031, 163.036, 168.515, and 210.145 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of sections 163.031, 163.036, 168.515, and 210.145 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 25, 2004

SB 972 [HCS SCS SB 972]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a Public Safety Medal of Valor for certain public safety officers.

AN ACT to amend chapter 650, RSMo, by adding thereto five new sections relating to the creation of a public safety officer medal of valor.

SECTION

- A. Enacting clause.
- 650.600. Citation.
- 650.605. Definitions.
- 650.610. Medals for extraordinary valor may be issued to public safety officers, when — surviving relatives may receive medal on person's behalf.
- 650.615. Missouri medal of valor review board established, membership — term — vacancies — duties.
- 650.620. Missouri public safety officer medal of valor fund established — use of funds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 650, RSMo, is amended by adding thereto five new sections, to be known as sections 650.600, 650.605, 650.610, 650.615, and 650.620, to read as follows:

650.600. CITATION. — Sections 650.600 to 650.620 may be cited as the "Missouri Public Safety Officer Medal of Valor Act".

650.605. DEFINITIONS. — As they appear in sections 650.600 to 650.620, the following words and terms shall mean:

- (1) "Act", the public safety officer medal of valor act of 2004;
- (2) "Board", the medal of valor review board as established by section 650.615;
- (3) "Medal", a Missouri public safety medal of valor, which shall be of suitable design as may be determined by the governor;
- (4) "Public safety officer", a person serving a public agency, with or without compensation, as a firefighter, law enforcement officer, or emergency personnel. The term "law enforcement officer" includes a person who is a state or local corrections or court officer or a civil defense officer.

650.610. MEDALS FOR EXTRAORDINARY VALOR MAY BE ISSUED TO PUBLIC SAFETY OFFICERS, WHEN — SURVIVING RELATIVES MAY RECEIVE MEDAL ON PERSON'S BEHALF. —

1. The governor is hereby authorized to award and present, in the name of the state of Missouri, a medal to a public safety officer, upon the recommendation of the board, for extraordinary valor above and beyond the call of duty. The medal shall be Missouri's highest award for valor by a public safety officer.

2. In the event of the death of any person who would be entitled to a medal pursuant to the provisions of this act, the same may be presented to a surviving relative on behalf of the deceased in the following order: widow, if not remarried; eldest living son; eldest living daughter; father; mother; eldest living brother; eldest living sister; and eldest living grandchild.

650.615. MISSOURI MEDAL OF VALOR REVIEW BOARD ESTABLISHED, MEMBERSHIP —

TERM — VACANCIES — DUTIES. — 1. There is established a "Missouri Medal of Valor Review Board", the members of which shall be individuals with knowledge or expertise, whether by experience or training, in the field of public safety, which shall conduct its business in accordance with sections 650.600 to 650.620, and be composed of eleven members, all residents of Missouri, and appointed in the following manner:

- (1) One member shall be either the director of the department of public safety or a designee appointed by the director;

- (2) One member shall be a police chief;
 - (3) One member shall be a fire chief;
 - (4) One member shall be an elected county sheriff;
 - (5) One member shall be the director of an ambulance district;
 - (6) One member shall be a citizen with experience in law enforcement;
 - (7) One member shall be a citizen with experience in corrections;
 - (8) One member shall be a citizen with experience in firefighting;
 - (9) One member shall be a citizen with experience in emergency medical services;
- and
- (10) Two members shall be appointed at the governor's discretion.
2. The term of a board member shall be four years.
3. Any vacancy in the membership of the board shall not affect the powers of the board and shall be filled in the same manner as the original appointment.
4. (1) The chairman of the board shall be elected by the members of the board from among the members of the board.
- (2) The board shall conduct its first meeting not later than ninety days after the appointment of the last member appointed of the initial group of members appointed to the board. Thereafter, the board shall meet at the call of the chairman of the board. The board shall meet not less often than once each year and not more than three times a year.
- (3) A majority of the members shall constitute a quorum to conduct business, but the board may establish a lesser quorum for conducting hearings scheduled by the board. The board may establish by majority vote any other rules for the conduct of the board's business, if such rules are not inconsistent with this act or other applicable law.
- (4) The board shall select candidates as recipients of the medal from among those applications received by the board. Not more often than once each year, the board shall present to the governor the name or names of those it recommends as medal recipients. In a given year, the board shall not be required to select any recipients but may not select more than seven recipients. The governor may in extraordinary cases increase the number of recipients in a given year. The board shall set an annual timetable for fulfilling its duties under this act.
- (5) The board may secure directly from any department or agency such information as the board considers necessary to carry out its duties. Upon the request of the board, the head of such department or agency may furnish such information to the board.
- (6) The board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.
- (7) The members of the board shall serve without compensation, except that the members may be reimbursed for reasonable and necessary expenses arising from board activities or business. Such expenses shall be paid by the department of public safety from the fund created pursuant to section 650.620.

650.620. MISSOURI PUBLIC SAFETY OFFICER MEDAL OF VALOR FUND ESTABLISHED —
USE OF FUND. — 1. There is hereby established in the state treasury a fund to be known as the "Missouri Public Safety Officer Medal of Valor Fund", which shall consist of all moneys that may include any gifts, contributions, grants, or bequests received from federal, state, private, or other sources. The fund shall be administered by the office of administration. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri public safety officer medal of valor fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. Interest and moneys earned on the fund shall be credited to the fund.

2. Moneys in the fund shall be used solely for the purpose of reimbursing members of the medal of valor review board for their actual and necessary travel expenses and to

promote the solicitation for designs for, aid in the manufacture of, and aid in the distribution of the Missouri public safety medal of valor.

Approved June 14, 2004

SB 974 [SCS SB 974]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the State Legal Expense Fund.

AN ACT to repeal section 105.711, RSMo, and to enact in lieu thereof one new section relating to suits against health care providers who provide medical evaluations.

SECTION

A. Enacting clause.

105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 105.711, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.711, to read as follows:

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; or

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who

is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) **Any physician licensed pursuant to chapter 334, RSMo, who is affiliated with and receives no compensation from a non-profit entity qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which offers a free health screening in any setting or** any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, dental or nursing treatment within the scope of his license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such treatment is restricted to primary care and preventive health services, provided that such treatment shall not include the performance of an abortion, and if such medical, dental or nursing services are provided by the physician, dentist, physician assistant, dental hygienist or nurse without compensation. **Medicaid or medicare payments for primary care and preventive health services provided by a physician, dentist, physician assistant, dental hygienist, or nurse who volunteers at a "free health clinic" is not compensation for the purpose of this section if the total payment is assigned to the "free health clinic". For the purposes of the section, "free health clinic" means a nonprofit community health center qualified as exempt from federal taxation under Section 501 (c)(3) of the Internal Revenue Code of 1987, as amended, that provides primary care and preventive health services to people without health insurance coverage for the services provided without charge.** In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars. **Liability or malpractice insurance obtained and maintained in force by or on behalf of any physician, dentist, physician assistant, dental hygienist, or nurse shall not be considered available to pay that portion of a judgment or claim for which the state legal expense fund is liable under this paragraph; or**

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or

chapter 335, RSMo, who provides medical, nursing or dental treatment within the scope of his license or registration to students of a school whether a public, private or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(4) Staff employed by the juvenile division of any judicial circuit.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), and (e) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection 5 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any physician, dentist, physician assistant, dental hygienist, or nurse for coverage concerning his or her private practice and assets shall not be considered available under subsection 5 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. However, a physician, nurse, dentist, physician assistant, or dental hygienist may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), and (e) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is in effect.

4. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a physician, dentist, physician assistant, dental hygienist, or nurse described in paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall only be made for services rendered in accordance with the conditions of such paragraphs.

5. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

6. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

Approved July 9, 2004

SB 987 [SCS SB 987]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes provisions relating to water districts and water and sewer bonds.

AN ACT to repeal sections 247.040 and 247.085, RSMo, and to enact in lieu thereof six new sections relating to water service to annexed areas.

SECTION

- A. Enacting clause.
- 247.040. Formation of public water supply district — procedure.
- 247.085. Board may contract for water supply with city, when — publication of notice — sale of property, use of funds.
- 644.581. Board may borrow additional \$10,000,000 for purposes of water pollution control, improvement of drinking water, and storm water control.
- 644.582. Board may borrow additional \$10,000,000 for purposes of rural water and sewer grants and loans.
- 644.583. Board may borrow additional \$20,000,000 for purposes of storm water control.
 - 1. Public water supply districts to be notified of water service inquiries, when, contents.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 247.040 and 247.085, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 247.040, 247.085, 644.581, 644.582, 644.583, and 1 to read as follows:

247.040. FORMATION OF PUBLIC WATER SUPPLY DISTRICT — PROCEDURE. — 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether or not the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall

be signed by not less than fifty voters or owners of real property within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the signers [thereof] **of the petition, including a statement confirming that service has been made by certified mail to the city manager or the business office of any municipality with boundaries located not more than one mile from any boundary of the proposed district.**

2. Upon the filing of the petition, the same shall be presented to the circuit court, and such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the clerk of the court shall give notice of the filing of the petition in some newspaper of general circulation in the county in which the proceedings are pending, and if the district extends into any other county or counties, such notice shall also be published in some newspaper of general circulation in such other county or counties. The notice shall contain a description of the proposed boundary lines of the district and the general purposes of the petition, and shall set forth the date fixed for the hearing on the petition, which shall not be less than seven nor more than twenty-one days after the date of the last publication of the notice and shall be on some regular judicial day of the court wherein the petition is pending. Such notice shall be signed by the clerk of the circuit court and shall be published in three successive issues of a weekly newspaper or in a daily newspaper once a week for three consecutive weeks.

3. The court, for good cause shown, may continue the case or the hearing thereon from time to time until final disposition thereof.

4. Exceptions to the formation of a district, or to the boundaries outlined in the petition for the incorporation thereof, may be made by any voter or owner of real property in the proposed district **or by any municipality with boundaries located not more than one mile from any boundary of the proposed district;** provided, such exceptions are filed not less than five days prior to the date set for the hearing on the petition. Such exceptions shall specify the grounds upon which the exceptions are being made. If any such exceptions be filed, the court shall take them into consideration in passing upon the petition and shall also consider the evidence in support of the petition and in support of the exceptions made. Should the court find that the petition should be granted but that changes should be made in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with such boundaries as changed.

5. Should the court find that it would not be to the public interest to form such a district, the petition shall be dismissed at the costs of the petitioners. If, however, the court should find in favor of the formation of such district, the court shall enter its decree of incorporation, setting forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid hearing. The decree of incorporation shall also divide the district into five subdistricts and shall fix their boundary lines, all of which subdistricts shall have approximately the same area and shall be numbered. The decree shall further contain an appointment of one voter from each of such subdistricts, to constitute the first board of directors of the district. No two members of such board so appointed or hereafter elected or appointed shall reside in the same subdistrict, except as provided in section 247.060. If no qualified person who lives in the subdistrict is willing to serve on the board, the court may appoint, or the voters may elect, an otherwise qualified person who lives in the district but not in the subdistrict. The court shall designate two of such directors so appointed to serve for a term of two years and one to serve for a term of one year. And the directors thus appointed by the court shall serve for the terms thus designated and until their successors shall have been appointed or elected as herein provided. The decree shall further designate the name and number of the district by which it shall hereafter be officially known.

6. The decree of incorporation shall not become final and conclusive until it shall have been submitted to the voters residing within the boundaries described in such decree and until it shall have been assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds of the voters of the district voting on the proposition. The decree shall provide for the submission of the question and shall fix the date thereof. The returns shall be certified by the

judges and clerks of election to the circuit court having jurisdiction in the case and the court shall thereupon enter its order canvassing the returns and declaring the result of such election.

7. If, upon canvass and declaration, it is found and determined that the question shall have been assented to by a majority of two-thirds of the voters of the district voting on such proposition, then the court shall, in such order declaring the result of the election, enter a further order declaring the decree of incorporation to be final and conclusive. In the event, however, that the court should find that the question had not been assented to by the majority above required, the court shall enter a further order declaring such decree of incorporation to be void and of no effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid orders. In the event that the court declares the decree of incorporation to be final, as herein provided for, the clerk of the circuit court shall file certified copies of such decree of incorporation and of such final order with the secretary of state of the state of Missouri, and with the recorder of deeds of the county or counties in which the district is situate and with the clerk of the county commission of the county or counties in which the district is situate.

8. The costs incurred in the formation of the district shall be taxed to the district, if the district be incorporated otherwise against the petitioners.

9. If petitioners seeking formation of a public water supply district specify in their petition that the district to be organized shall be organized without authority to issue general obligation bonds, then the decrees relating to the formation of the district shall recite that the district shall not have authority to issue general obligation bonds and the vote required for such a decree of incorporation to become final and conclusive shall be a simple majority of the voters of the district voting on such proposition.

247.085. BOARD MAY CONTRACT FOR WATER SUPPLY WITH CITY, WHEN — PUBLICATION OF NOTICE — SALE OF PROPERTY, USE OF FUNDS. — 1. The board of directors of any public water supply district which is dependent upon purchases of water to supply its needs shall have power to sell and convey part or all of the property of the district to any city, owning and operating a waterworks system, in consideration whereof the city shall obligate itself to pay or assume the payment of all outstanding bond obligations of the district, and to provide reasonable and adequate water service and furnish water ample in quantity for all needful purposes, and pure and wholesome in quality, to the inhabitants of the territory lying within the district, during such period of time and under such terms and conditions as may be agreed upon by the city and the board of directors of the district; provided, however, that no action shall be taken as provided herein until said city and public water supply district shall cause a printed notice of their intention to act under this section to be published in a manner prescribed for by law in a newspaper having a general circulation in said city and public water supply district, and a statement of the time and manner of said publication shall be recited in any agreement or contract executed hereunder.

2. Thereafter the board of directors may sell and convey any remaining property of the district and after payment of the debts of the district, other than bond obligations, the board of directors may use the funds of the district for the purpose of providing fire protection or for any other public purpose which in the opinion of the board will be beneficial to the inhabitants of the district.

3. The powers granted by this section are in addition to the powers granted by other sections and are not subject to the terms and conditions set forth in those sections.

644.581. BOARD MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF WATER POLLUTION CONTROL, IMPROVEMENT OF DRINKING WATER, AND STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and this chapter.

644.582. BOARD MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF RURAL WATER AND SEWER GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

644.583. BOARD MAY BORROW ADDITIONAL \$20,000,000 FOR PURPOSES OF STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2004, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

SECTION 1. PUBLIC WATER SUPPLY DISTRICTS TO BE NOTIFIED OF WATER SERVICE INQUIRIES, WHEN, CONTENTS. — When an entity considering or proposing the construction of a multiresidential or commercial development, which is located within the city limits of a city owning a waterworks and also located within the boundaries of a public water supply district, makes an inquiry of the city administrator respecting the supply of water service to such construction project, the city shall notify the public water supply district of such inquiry. Such notification shall be within ten days of the initial inquiry of the city administrator, shall be by certified mail, and shall state the location of such construction project to the extent the city administrator is aware of such.

Approved June 30, 2004

SB 992 [SCS SB 992]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the definition of containers approved for transporting anhydrous ammonia.

AN ACT to repeal section 578.154, RSMo, and to enact in lieu thereof one new section relating to the possession and transportation of anhydrous ammonia, with penalty provisions.

SECTION

A. Enacting clause.

578.154. Possession of anhydrous ammonia, crime of — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 578.154, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 578.154, to read as follows:

578.154. POSSESSION OF ANHYDROUS AMMONIA, CRIME OF — PENALTY. — 1. A person commits the crime of possession of anhydrous ammonia in a nonapproved container if he or she possesses any quantity of anhydrous ammonia in [any container other than a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator or any container approved for anhydrous ammonia by the department of agriculture or the United States Department of Transportation] **a cylinder or other portable container that was not designed,**

fabricated, tested, constructed, marked and placarded in accordance with the United States Department of Transportation Hazardous Materials regulations contained in CFR 49 Parts 100 to 185, revised as of October 1, 2002, which are herein incorporated by reference, and approved for the storage and transportation of anhydrous ammonia, or any container that is not a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator.

2. Cylinder and other portable container valves and other fittings, or hoses attached thereto, used in anhydrous ammonia service shall be constructed of material resistant to anhydrous ammonia and shall not be constructed of brass, copper, silver, zinc, or other material subject to attack by ammonia. Each cylinder utilized for the storage and transportation of anhydrous ammonia shall be labeled, in a conspicuous location, with the words "ANHYDROUS AMMONIA" or "CAUTION: ANHYDROUS AMMONIA" and the UN number 1005 (UN 1005).

3. A violation of this section is a class D felony.

Approved July 2, 2004

SB 1000 [HS HCS SS SB 1000]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to DNA profiling and testing.

AN ACT to repeal sections 650.050, 650.052, 650.055, and 650.100, RSMo, and to enact in lieu thereof five new sections relating to a DNA profiling system, with penalty provisions and an effective date for certain sections.

SECTION

- A. Enacting clause.
- 488.5400. Surcharges on all criminal cases, amount — deposit in DNA profiling analysis fund — expiration date.
- 650.050. DNA profiling system to be established in department of public safety, purpose.
- 650.052. Consultation with crime laboratories — DNA system, powers and duties — expert testimony — rulemaking authority.
- 650.055. Felony convictions for certain offenses to have biological samples collected, when — use of sample — highway patrol and department of corrections, duty — DNA records and biological materials to be closed record, disclosure, when — expungement of record, when — liability of guilty person.
- 650.100. Definitions.
- B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 650.050, 650.052, 650.055, and 650.100, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 488.5400, 650.050, 650.052, 650.055, and 650.100, to read as follows:

488.5400. SURCHARGES ON ALL CRIMINAL CASES, AMOUNT — DEPOSIT IN DNA PROFILING ANALYSIS FUND — EXPIRATION DATE. — **1.** In addition to any other surcharges authorized by statute, the clerk of each court of this state shall collect the surcharges provided for in subsection 2 of this section.

2. A surcharge of thirty dollars shall be assessed as costs in each circuit court proceeding filed within this state in all criminal cases in which the defendant pleads guilty or nolo contendere to or is convicted of a felony. A surcharge of fifteen dollars shall be

assessed as costs in each court proceeding filed within this state in all criminal cases in which the defendant pleads guilty or nolo contendere to or is convicted of a misdemeanor.

3. Notwithstanding any other provisions of law, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with section 488.010 to 488.020, and shall be payable to the state treasurer.

4. The state treasurer shall deposit such moneys or other gifts, grants, or monies received on a monthly basis into the DNA profiling analysis fund, which is hereby created in the state treasury. The fund shall be administered by the department of public safety. The moneys deposited into the DNA profiling analysis fund shall be used only for DNA profiling analysis of convicted offender samples performed to fulfill the purposes of the DNA profiling system pursuant to section 650.052, RSMo.

5. The provisions of subsection 1 and 2 of this section shall expire on August 28, 2006.

650.050. DNA PROFILING SYSTEM TO BE ESTABLISHED IN DEPARTMENT OF PUBLIC SAFETY, PURPOSE. — 1. The Missouri department of public safety shall develop and establish a "DNA Profiling System", referred to in sections 650.050 to 650.057 as the system to [support criminal justice services in the local communities throughout this state in DNA identification] **assist federal, state, and local criminal justice and law enforcement agencies in the identification, investigation, and prosecution of individuals as well as the identification of missing or unidentified persons.** This [establishment] **DNA profiling system** shall [be accomplished through consultation with the Kansas City, Missouri regional crime laboratory, Missouri state highway patrol crime laboratory, St. Louis, Missouri metropolitan crime laboratory, St. Louis county crime laboratory, southeast Missouri regional crime laboratory, Springfield regional crime laboratory, and the Missouri Southern State College police academy regional crime lab] **consist of qualified Missouri forensic laboratories approved by the Federal Bureau of Investigation. Missouri state highway patrol crime laboratory shall be the administrator of the state's DNA index system.**

2. The DNA profiling system as established in this section shall be compatible with that used by the Federal Bureau of Investigation to ensure that DNA records are fully exchangeable between DNA laboratories and that quality assurance standards issued by the director of the Federal Bureau of Investigations are applied and performed.

650.052. CONSULTATION WITH CRIME LABORATORIES — DNA SYSTEM, POWERS AND DUTIES — EXPERT TESTIMONY — RULEMAKING AUTHORITY. — 1. The state's DNA profiling system shall:

(1) Assist federal, state and local criminal justice and law enforcement agencies in the [putative] identification, detection or exclusion of individuals who are subjects of the investigation or prosecution of [violent or sex-related crime] **criminal offenses** in which biological evidence is recovered [from the crime scene] **or obtained**; and

(2) **If personally identifiable information is removed**, support development of **forensic validation studies, forensic protocols, and the establishment and maintenance of a population statistics database, [when personal identifying information is removed] for federal, state, or local crime laboratories of law enforcement agencies**; and

(3) [Support identification research and protocol development of forensic DNA analysis methods; and

(4) For quality control purposes; or

(5)] Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of [living] missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA profiling system and shall [coordinate with the Federal Bureau of Investigation on the national database program] **collaborate with the Federal Bureau of Investigation and other criminal**

justice agencies relating to the state's participation in CODIS and the National DNA Index System or in any DNA database.

3. The Missouri state highway patrol may promulgate rules **and regulations to implement the provisions of sections 650.050 to 650.100** in accordance with Federal Bureau of Investigation recommendations for the form and manner of collection of blood or other scientifically accepted biological samples and other procedures for the operation of sections 650.050 to 650.057. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The Missouri state highway patrol shall provide the necessary components for collection of the convicted offender's biological samples. **For qualified offenders as defined by section 650.055 who are under custody and control of the department of corrections, the DNA sample collection shall be performed by the department of corrections and the division of probation and parole, or their authorized designee or contracted third party. For qualified offenders as defined by section 650.055 who are under custody and control of a county jail, the DNA sample collections shall be performed by the county jail or its authorized designee or contracted third party.** The specimens shall thereafter be forwarded to the Missouri state highway patrol crime laboratory. **Any DNA profiling analysis or collection of DNA samples by the state or any county performed pursuant to sections 650.050 to 650.100 shall be subject to appropriations.**

5. The state's **participating** forensic DNA laboratories shall meet quality assurance standards specified by the Missouri state highway patrol **crime laboratory** and the Federal Bureau of Investigation to ensure quality DNA identification records submitted to the central repository.

6. The state's **participating** forensic DNA laboratories may provide the system for identification purposes to criminal justice, law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court and provide expert testimony in court on DNA evidentiary issues.

7. **The department of public safety shall have the authority to promulgate rules and regulations to carry out the provisions of sections 650.050 to 650.100. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.**

650.055. FELONY CONVICTIONS FOR CERTAIN OFFENSES TO HAVE BIOLOGICAL SAMPLES COLLECTED, WHEN — USE OF SAMPLE — HIGHWAY PATROL AND DEPARTMENT OF CORRECTIONS, DUTY — DNA RECORDS AND BIOLOGICAL MATERIALS TO BE CLOSED RECORD, DISCLOSURE, WHEN — EXPUNGEMENT OF RECORD, WHEN — LIABILITY OF GUILTY PERSON. — 1. Every individual **who pleads guilty or nolo contendere to or is convicted in a Missouri circuit court, of a felony[, defined as a violent offense under chapter 565, RSMo,] or [as a sex] any offense under chapter 566, RSMo, [excluding sections 566.010 and 566.020, RSMo.] or has been determined beyond a reasonable doubt to be a sexually violent predator pursuant to 632.480 to 632.513, RSMo,** shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) Upon entering the department of [correction's] **corrections** reception and diagnostic centers; or

(2) Before release from a county jail or detention facility, **state correctional facility or any other detention facility or institution, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo;** or

(3) **When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or**

(4) If such individual is under the jurisdiction of the department of corrections [on or after August 28, 1996]. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody [of] **or jurisdiction over those who have been convicted of [the], pleaded guilty to, or pleaded nolo contendere to felony offenses** which shall not be set aside or reversed, is hereby made mandatory. **The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.**

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA data bank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of section 650.050 and this section shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA data bank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) **Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;**

(2) **The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;**

(3) **Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; or**

(4) **Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.**

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including, but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this act may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.

9. Notwithstanding the sovereign immunity of the state, an individual who is determined to be "actually innocent" of a crime may be paid restitution in accordance with this subsection. The individual may receive an amount of fifty dollars per day for each day of post-conviction incarceration for the crime for which the individual is determined to be actually innocent. The petition for the payment of said restitution shall be filed with the sentencing court within one year of the release from confinement after August 28, 2003. For the purposes of this subsection the term "actually innocent" shall mean:

(a) The individual was convicted of a felony for which a final order of release was entered by the court;

(b) All appeals of the order of release have been exhausted;

(c) The individual was not serving any term of a sentence for any other crime concurrently with the sentence for which they are determined to be actually innocent; and

(d) Testing ordered pursuant to section 547.035, RSMo demonstrates a person's innocence of the crime for which the person is in custody.

An individual who receives restitution pursuant to this subsection shall be prohibited from seeking any civil redress from the state, its departments and agencies, or any employee thereof, or any political subdivision or its employees. This subsection shall not be construed as a waiver of sovereign immunity for any purposes other than the restitution

provided for herein. All restitution paid pursuant to this subsection shall be paid from moneys in the DNA profiling analysis fund. The department shall determine the aggregate amount of restitution owed during a fiscal year. If moneys remain in the fund on June 30 of each fiscal year, the remaining moneys shall be used to pay restitution to those individuals who have received an order awarding restitution under this subsection during the past fiscal year. If insufficient moneys remain in the fund on June 30 of each fiscal year to pay restitution to such persons, the department shall pay each individual who has received an order awarding restitution a pro rata share of the amount such person is owed. The remaining amounts owed to such individual shall be paid from the fund on June 30 of each subsequent fiscal year, provided moneys remain in the fund on June 30, until such time as the restitution to the individual has been paid in full. No interest on unpaid restitution shall be awarded to the individual. If there are no moneys remaining in the DNA profiling analysis fund, then no payments shall be made under this subsection. No individual who has been determined by the court to be actually innocent shall be responsible for the costs of care under section 217.831, RSMo.

10. If the results of the DNA testing confirm the person's guilt, then the person filing for DNA testing under section 547.035, RSMo shall:

(a) Be liable for any reasonable costs incurred when conducting the DNA test, including but not limited to the cost of the test. Such costs shall be determined by the court and shall be included in the findings of fact and conclusions of law made by the court; and

(b) Be sanctioned under the provisions of section 217.262, RSMo.

650.100. DEFINITIONS. — The following words shall have the following meanings unless a different meaning clearly appears from the context:

(1) **"CODIS"**, the Federal Bureau of Investigation's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state, and local DNA crime laboratories. The term **"CODIS"** includes the National DNA Index System administered and operated by the Federal Bureau of Investigation;

(2) **"Crime laboratories"** [means], those crime laboratories existing on September 28, 1979, in certain cities in this state and which have at least once prior to September 28, 1979, received funding through the Missouri council on criminal justice, and such other crime laboratories that may be created to serve specified regions of the state as determined by the director of the department of public safety;

[(2)] (3) **"Department"** [means], the Missouri department of public safety;

(4) **"DNA"**, deoxyribonucleic acid. DNA is located in the cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification;

(5) **"DNA profile"**, refers to the collective results of all DNA identification analyses on an individual's DNA sample;

(6) **"DNA record"**, the DNA identification information stored in the state DNA database or CODIS. The DNA record is the result obtained from the DNA analysis. The DNA record is comprised of the characteristics of a DNA sample, which are of value in establishing the identity of individuals;

(7) **"DNA sample"**, a biological sample provided by any person with respect to offenses covered by section 650.055 or submitted to the Missouri state highway patrol crime laboratory pursuant to sections 650.050 to 650.100 for analysis or storage or both;

[(3)] (8) **"Local funds"** [means], any funds not provided by the federal government.

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 650.050, 650.052, 650.055, and 650.100 of this act shall become effective January 1, 2005.

Approved June 17, 2004

SB 1003 [SCS SB 1003]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a comprehensive children's mental health service system.

AN ACT to repeal sections 208.152, 208.204, and 630.210, RSMo, and to enact in lieu thereof four new sections relating to the children's mental health reform act.

SECTION

- A. Enacting clause.
- 208.152. Medical services for which payment will be made — reasonable cost, determination of — federal standards to be met — enrollment of qualified residential care facilities.
- 208.204. Medical care for children in custody of department, payment — division of medical services may administer funds — individualized service plans developed for children in state custody exclusively based on need for mental health services.
- 630.097. Comprehensive children's mental health service system to be developed — team established, members, duties — plan to be developed, content — evaluations to be conducted, when.
- 630.210. Charges for pay patients — each facility considered a separate unit — director to determine rules for means test and domicile verification — failure to pay, effect — exceptions, emergency treatment for transients — waiver of means test for certain children, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.152, 208.204, and 630.210, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 208.152, 208.204, 630.097, and 630.210, to read as follows:

208.152. MEDICAL SERVICES FOR WHICH PAYMENT WILL BE MADE — REASONABLE COST, DETERMINATION OF — FEDERAL STANDARDS TO BE MET — ENROLLMENT OF QUALIFIED RESIDENTIAL CARE FACILITIES. — 1. Benefit payments for medical assistance shall be made on behalf of those eligible needy persons who are unable to provide for it in whole or in part, with any payments to be made on the basis of the reasonable cost of the care or reasonable charge for the services as defined and determined by the division of medical services, unless otherwise hereinafter provided, for the following:

(1) Inpatient hospital services, except to persons in an institution for mental diseases who are under the age of sixty-five years and over the age of twenty-one years; provided that the division of medical services shall provide through rule and regulation an exception process for coverage of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile professional activities study (PAS) or the Medicaid children's diagnosis length-of-stay schedule; and provided further that the division of medical services shall take into account through its payment system for hospital services the situation of hospitals which serve a disproportionate number of low-income patients;

(2) All outpatient hospital services, payments therefor to be in amounts which represent no more than eighty percent of the lesser of reasonable costs or customary charges for such services, determined in accordance with the principles set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the division of medical services may evaluate outpatient hospital services rendered under this section and deny payment for services which are determined by the division of medical services not to be medically necessary, in accordance with federal law and regulations;

(3) Laboratory and X-ray services;

(4) Nursing home services for recipients, except to persons in an institution for mental diseases who are under the age of sixty-five years, when residing in a hospital licensed by the department of health and senior services or a nursing home licensed by the division of aging or

appropriate licensing authority of other states or government-owned and -operated institutions which are determined to conform to standards equivalent to licensing requirements in Title XIX, of the federal Social Security Act (42 U.S.C. 301, et seq.), as amended, for nursing facilities. The division of medical services may recognize through its payment methodology for nursing facilities those nursing facilities which serve a high volume of Medicaid patients. The division of medical services when determining the amount of the benefit payments to be made on behalf of persons under the age of twenty-one in a nursing facility may consider nursing facilities furnishing care to persons under the age of twenty-one as a classification separate from other nursing facilities;

(5) Nursing home costs for recipients of benefit payments under subdivision (4) of this section for those days, which shall not exceed twelve per any period of six consecutive months, during which the recipient is on a temporary leave of absence from the hospital or nursing home, provided that no such recipient shall be allowed a temporary leave of absence unless it is specifically provided for in his plan of care. As used in this subdivision, the term "temporary leave of absence" shall include all periods of time during which a recipient is away from the hospital or nursing home overnight because he is visiting a friend or relative;

(6) Physicians' services, whether furnished in the office, home, hospital, nursing home, or elsewhere;

(7) Dental services;

(8) Services of podiatrists as defined in section 330.010, RSMo;

(9) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;

(10) Emergency ambulance services and, effective January 1, 1990, medically necessary transportation to scheduled, physician-prescribed nonelective treatments. The department of social services may conduct demonstration projects related to the provision of medically necessary transportation to recipients of medical assistance under this chapter. Such demonstration projects shall be funded only by appropriations made for the purpose of such demonstration projects. If funds are appropriated for such demonstration projects, the department shall submit to the general assembly a report on the significant aspects and results of such demonstration projects;

(11) Early and periodic screening and diagnosis of individuals who are under the age of twenty-one to ascertain their physical or mental defects, and health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby. Such services shall be provided in accordance with the provisions of section 6403 of P.L.53 101-239 and federal regulations promulgated thereunder;

(12) Home health care services;

(13) Optometric services as defined in section 336.010, RSMo;

(14) Family planning as defined by federal rules and regulations; provided, however, that such family planning services shall not include abortions unless such abortions are certified in writing by a physician to the Medicaid agency that, in his professional judgment, the life of the mother would be endangered if the fetus were carried to term;

(15) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids, and wheelchairs;

(16) Inpatient psychiatric hospital services for individuals under age twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

(17) Outpatient surgical procedures, including presurgical diagnostic services performed in ambulatory surgical facilities which are licensed by the department of health and senior services of the state of Missouri; except, that such outpatient surgical services shall not include persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended, if exclusion of such persons is permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security Act, as amended;

(18) Personal care services which are medically oriented tasks having to do with a person's physical requirements, as opposed to housekeeping requirements, which enable a person to be treated by his physician on an outpatient, rather than on an inpatient or residential basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be rendered by an individual not a member of the recipient's family who is qualified to provide such services where the services are prescribed by a physician in accordance with a plan of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care services shall be those persons who would otherwise require placement in a hospital, intermediate care facility, or skilled nursing facility. Benefits payable for personal care services shall not exceed for any one recipient one hundred percent of the average statewide charge for care and treatment in an intermediate care facility for a comparable period of time;

(19) Mental health services. The state plan for providing medical assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental health services when such services are provided by community mental health facilities operated by the department of mental health or designated by the department of mental health as a community mental health facility or as an alcohol and drug abuse facility **or as a child-serving agency within the comprehensive children's mental health service system established in section 630.097, RSMo.** The department of mental health shall establish by administrative rule the definition and criteria for designation as a community mental health facility and for designation as an alcohol and drug abuse facility. Such mental health services shall include:

(a) Outpatient mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(b) Clinic mental health services including preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management;

(c) Rehabilitative mental health and alcohol and drug abuse services including **home and community-based** preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health or alcohol and drug abuse professional in accordance with a plan of treatment appropriately established, implemented, monitored, and revised under the auspices of a therapeutic team as a part of client services management. As used in this section, "mental health professional" and "alcohol and drug abuse professional" shall be defined by the department of mental health pursuant to duly promulgated rules. With respect to services established by this subdivision, the department of social services, division of medical services, shall enter into an agreement with the department of mental health. Matching funds for outpatient mental health services, clinic mental health services, and rehabilitation services for mental health and alcohol and drug abuse shall be certified by the department of mental health to the division of medical services. The agreement shall establish a mechanism for the joint implementation of the provisions of this subdivision. In addition, the agreement shall establish a mechanism by which rates for services may be jointly developed;

(20) Comprehensive day rehabilitation services beginning early posttrauma as part of a coordinated system of care for individuals with disabling impairments. Rehabilitation services must be based on an individualized, goal-oriented, comprehensive and coordinated treatment plan developed, implemented, and monitored through an interdisciplinary assessment designed to restore an individual to optimal level of physical, cognitive and behavioral function. The division of medical services shall establish by administrative rule the definition and criteria for

designation of a comprehensive day rehabilitation service facility, benefit limitations and payment mechanism;

(21) Hospice care. As used in this subsection, the term "hospice care" means a coordinated program of active professional medical attention within a home, outpatient and inpatient care which treats the terminally ill patient and family as a unit, employing a medically directed interdisciplinary team. The program provides relief of severe pain or other physical symptoms and supportive care to meet the special needs arising out of physical, psychological, spiritual, social and economic stresses which are experienced during the final stages of illness, and during dying and bereavement and meets the Medicare requirements for participation as a hospice as are provided in 42 CFR Part 418. Beginning July 1, 1990, the rate of reimbursement paid by the division of medical services to the hospice provider for room and board furnished by a nursing home to an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement which would have been paid for facility services in that nursing home facility for that patient, in accordance with subsection (c) of section 6408 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989);

(22) Such additional services as defined by the division of medical services to be furnished under waivers of federal statutory requirements as provided for and authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

(23) Beginning July 1, 1990, the services of a certified pediatric or family nursing practitioner to the extent that such services are provided in accordance with chapter 335, RSMo, and regulations promulgated thereunder, regardless of whether the nurse practitioner is supervised by or in association with a physician or other health care provider;

(24) Subject to appropriations, the department of social services shall conduct demonstration projects for nonemergency, physician-prescribed transportation for pregnant women who are recipients of medical assistance under this chapter in counties selected by the director of the division of medical services. The funds appropriated pursuant to this subdivision shall be used for the purposes of this subdivision and for no other purpose. The department shall not fund such demonstration projects with revenues received for any other purpose. This subdivision shall not authorize transportation of a pregnant woman in active labor. The division of medical services shall notify recipients of nonemergency transportation services under this subdivision of such other transportation services which may be appropriate during active labor or other medical emergency;

(25) Nursing home costs for recipients of benefit payments under subdivision (4) of this subsection to reserve a bed for the recipient in the nursing home during the time that the recipient is absent due to admission to a hospital for services which cannot be performed on an outpatient basis, subject to the provisions of this subdivision:

(a) The provisions of this subdivision shall apply only if:

a. The occupancy rate of the nursing home is at or above ninety-seven percent of Medicaid certified licensed beds, according to the most recent quarterly census provided to the division of aging which was taken prior to when the recipient is admitted to the hospital; and

b. The patient is admitted to a hospital for a medical condition with an anticipated stay of three days or less;

(b) The payment to be made under this subdivision shall be provided for a maximum of three days per hospital stay;

(c) For each day that nursing home costs are paid on behalf of a recipient pursuant to this subdivision during any period of six consecutive months such recipient shall, during the same period of six consecutive months, be ineligible for payment of nursing home costs of two otherwise available temporary leave of absence days provided under subdivision (5) of this subsection; and

(d) The provisions of this subdivision shall not apply unless the nursing home receives notice from the recipient or the recipient's responsible party that the recipient intends to return to the nursing home following the hospital stay. If the nursing home receives such notification and

all other provisions of this subsection have been satisfied, the nursing home shall provide notice to the recipient or the recipient's responsible party prior to release of the reserved bed.

2. Benefit payments for medical assistance for surgery as defined by rule duly promulgated by the division of medical services, and any costs related directly thereto, shall be made only when a second medical opinion by a licensed physician as to the need for the surgery is obtained prior to the surgery being performed.

3. The division of medical services may require any recipient of medical assistance to pay part of the charge or cost, as defined by rule duly promulgated by the division of medical services, for dental services, drugs and medicines, optometric services, eye glasses, dentures, hearing aids, and other services, to the extent and in the manner authorized by Title XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder. When substitution of a generic drug is permitted by the prescriber according to section 338.056, RSMo, and a generic drug is substituted for a name brand drug, the division of medical services may not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX of the federal Social Security Act. A provider of goods or services described under this section must collect from all recipients the partial payment that may be required by the division of medical services under authority granted herein, if the division exercises that authority, to remain eligible as a provider. Any payments made by recipients under this section shall be in addition to, and not in lieu of, any payments made by the state for goods or services described herein.

4. The division of medical services shall have the right to collect medication samples from recipients in order to maintain program integrity.

5. Reimbursement for obstetrical and pediatric services under subdivision (6) of subsection 1 of this section shall be timely and sufficient to enlist enough health care providers so that care and services are available under the state plan for medical assistance at least to the extent that such care and services are available to the general population in the geographic area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated thereunder.

6. Beginning July 1, 1990, reimbursement for services rendered in federally funded health centers shall be in accordance with the provisions of subsection 6402(c) and section 6404 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations promulgated thereunder.

7. Beginning July 1, 1990, the department of social services shall provide notification and referral of children below age five, and pregnant, breast-feeding, or postpartum women who are determined to be eligible for medical assistance under section 208.151 to the special supplemental food programs for women, infants and children administered by the department of health and senior services. Such notification and referral shall conform to the requirements of section 6406 of P.L. 101-239 and regulations promulgated thereunder.

8. Providers of long-term care services shall be reimbursed for their costs in accordance with the provisions of section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

9. Reimbursement rates to long-term care providers with respect to a total change in ownership, at arm's length, for any facility previously licensed and certified for participation in the Medicaid program shall not increase payments in excess of the increase that would result from the application of section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

10. The department of social services, division of medical services, may enroll qualified residential care facilities, as defined in chapter 198, RSMo, as Medicaid personal care providers.

208.204. MEDICAL CARE FOR CHILDREN IN CUSTODY OF DEPARTMENT, PAYMENT — DIVISION OF MEDICAL SERVICES MAY ADMINISTER FUNDS — INDIVIDUALIZED SERVICE PLANS DEVELOPED FOR CHILDREN IN STATE CUSTODY EXCLUSIVELY BASED ON NEED FOR MENTAL HEALTH SERVICES. — 1. The division of medical services may administer the funds

appropriated to the department of social services or any division of the department for payment of medical care provided to children in the legal custody of the department of social services or any division of the department.

2. Through judicial review or family support team meetings, the children's division shall determine which cases involve children in the system due exclusively to a need for mental health services, and identify the cases where no instance of abuse, neglect, or abandonment exists.

3. Within sixty days of a child being identified pursuant to subsection 2 of this section, an individualized service plan shall be developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services. The individualized service plan shall specifically identify which agencies are going to pay for, subject to appropriations, and provide such services, and such plan shall be submitted to the court for approval. Services shall be provided in the least restrictive, most appropriate environment that meets the needs of the child including home, community-based treatment, and supports. The child's family shall actively participate in designing the individualized service plan for the child. The department of social services shall notify the appropriate judge of the child and shall submit the individualized service plan developed for approval by the judge. The child may be returned by the judge to the custody of the child's family.

4. When the children are returned to their family's custody and become the service responsibility of the department of mental health, the appropriate moneys to provide for the care of each child in each particular situation shall be billed to the department of social services by the department of mental health pursuant to a comprehensive financing plan jointly developed by the two departments.

630.097. COMPREHENSIVE CHILDREN'S MENTAL HEALTH SERVICE SYSTEM TO BE DEVELOPED — TEAM ESTABLISHED, MEMBERS, DUTIES — PLAN TO BE DEVELOPED, CONTENT — EVALUATIONS TO BE CONDUCTED, WHEN. — 1. The department of mental health shall develop, in partnership with all departments represented on the children's services commission, a unified accountable comprehensive children's mental health service system. The department of mental health shall establish a state interagency comprehensive children's mental health service system team comprised of representation from:

- (1) Family run organizations and family members;**
- (2) Child advocate organizations;**
- (3) The department of health and senior services;**
- (4) The department of social services' children's division, division of youth services, and the division of medical services;**
- (5) The department of elementary and secondary education;**
- (6) The department of mental health's division of alcohol and drug abuse, division of mental retardation and developmental disabilities, and the division of comprehensive psychiatric services;**
- (7) The department of public safety;**
- (8) The office of state courts administrator;**
- (9) The juvenile justice system; and**
- (10) Local representatives of the member organizations of the state team to serve children with emotional and behavioral disturbance problems, developmental disabilities, and substance abuse problems;**

The team shall be called "The Comprehensive System Management Team". There shall be a stakeholder advisory committee to provide input to the comprehensive system management team to assist the departments in developing strategies and to ensure positive outcomes for children are being achieved. The department of mental health shall obtain

input from appropriate consumer and family advocates when selecting family members for the comprehensive system management team, in consultation with the departments that serve on the children's services commission. The implementation of a comprehensive system shall include all state agencies and system partner organizations involved in the lives of the children served. These system partners may include private and not-for-profit organizations and representatives from local system of care teams and these partners may serve on the stakeholder advisory committee. The department of mental health shall promulgate rules for the implementation of this section in consultation with all of the departments represented in the children's services commission.

2. The department of mental health shall, in partnership with the departments serving on the children's services commission and the stakeholder advisory committee, develop a state comprehensive children's mental health service system plan. This plan shall be developed and submitted to the governor, the general assembly, and children's services commission by December, 2004. There shall be subsequent annual reports that include progress toward outcomes, monitoring, changes in populations and services, and emerging issues. The plan shall:

- (1) Describe the mental health service and support needs of Missouri's children and their families, including the specialized needs of specific segments of the population;
- (2) Define the comprehensive array of services including services such as intensive home-based services, early intervention services, family support services, respite services, and behavioral assistance services;
- (3) Establish short and long term goals, objectives, and outcomes;
- (4) Describe and define the parameters for local implementation of comprehensive children's mental health system teams;
- (5) Describe and emphasize the importance of family involvement in all levels of the system;
- (6) Describe the mechanisms for financing, and the cost of implementing the comprehensive array of services;
- (7) Describe the coordination of services across child serving agencies and at critical transition points, with emphasis on the involvement of local schools;
- (8) Describe methods for service, program, and system evaluation;
- (9) Describe the need for, and approaches to, training and technical assistance; and
- (10) Describe the roles and responsibilities of the state and local child serving agencies in implementing the comprehensive children's mental health care system.

3. The comprehensive system management team shall collaborate to develop uniform language to be used in intake and throughout provision of services.

4. The comprehensive children's mental health services system shall:

- (1) Be child centered, family focused, strength-based, and family driven, with the needs of the child and family dictating the types and mix of services provided, and shall include the families as full participants in all aspects of the planning and delivery of services;
 - (2) Provide community-based mental health services to children and their families in the context in which the children live and attend school;
 - (3) Respond in a culturally competent and responsive manner;
 - (4) Emphasize prevention, early identification, and intervention;
 - (5) Assure access to a continuum of services that:
 - (a) Educate the community about the mental health needs of children;
 - (b) Address the unique physical, behavioral, emotional, social, developmental, and educational needs of children;
 - (c) Are coordinated with the range of social and human services provided to children and their families by local school districts, social services, health and senior services, public safety, juvenile offices, and the juvenile and family courts;
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- (d) Provide a comprehensive array of services through an integrated service plan;
- (e) Provide services in the least restrictive most appropriate environment that meets the needs of the child; and
- (f) Are appropriate to the developmental needs of children;
- (6) Include early screening and prompt intervention to:
 - (a) Identify and treat the mental health needs of children in the least restrictive environment appropriate to their needs; and
 - (b) Prevent further deterioration;
- (7) Address the unique problems of paying for mental health services for children, including:
 - (a) Access to private insurance coverage;
 - (b) Public funding, including:
 - a. Assuring that funding follows children across departments; and
 - b. Maximizing federal financial participation;
 - (c) Private funding and services;
- (8) Assure a smooth transition from child to adult mental health services when needed;
- (9) Coordinate a service delivery system inclusive of services, providers, and schools that serve children and youth with emotional and behavioral disturbance problems, and their families through state agencies that serve on the state comprehensive children's management team; and
- (10) Be outcome based.

5. By August 28, 2007, and periodically thereafter, the children's services commission shall conduct and distribute to the general assembly an evaluation of the implementation and effectiveness of the comprehensive children's mental health care system, including an assessment of family satisfaction and the progress of achieving outcomes.

630.210. CHARGES FOR PAY PATIENTS — EACH FACILITY CONSIDERED A SEPARATE UNIT — DIRECTOR TO DETERMINE RULES FOR MEANS TEST AND DOMICILE VERIFICATION — FAILURE TO PAY, EFFECT — EXCEPTIONS, EMERGENCY TREATMENT FOR TRANSIENTS — WAIVER OF MEANS TEST FOR CERTAIN CHILDREN, WHEN. — 1. The director shall determine the maximum amount for services which shall be charged in each of the residential facilities, day programs or specialized services operated or funded by the department for full-time or part-time inpatient, resident or outpatient evaluation, care, treatment, habilitation, rehabilitation or other service rendered to persons affected by mental disorder, mental illness, mental retardation, developmental disability or drug or alcohol abuse. The maximum charge shall be related to the per capita inpatient cost or actual outpatient evaluation or other service costs of each facility, program or service, which may vary from one locality to another. The director shall promulgate rules setting forth a reasonable standard means test which shall be applied by all facilities, programs and services operated or funded by the department in determining the amount to be charged to persons receiving services. The department shall pay, out of funds appropriated to it for such purpose, all or part of the costs for the evaluation, care, treatment, habilitation, rehabilitation or room and board provided or arranged by the department for any patient, resident or client who is domiciled in Missouri and who is unable to pay fully for services.

2. The director shall apply the standard means test annually and may make application of the test upon his own initiative or upon request of an interested party whenever evidence is offered tending to show that the current support status of any patient, resident or client is no longer proper. Any change of support status shall be retroactive to the date of application or request for review. If the persons responsible to pay under section 630.205 or 552.080, RSMo, refuse to cooperate in providing information necessary to properly apply the test or if retroactive benefits are paid on behalf of the patient, resident or client, the charges may be retroactive to a date prior to the date of application or request for review. The decision of the director in

determining the amount to be charged for services to a patient, resident or client shall be final. Appeals from the determination may be taken to the circuit court of Cole County or the county where the person responsible for payment resides in the manner provided by chapter 536, RSMo.

3. The department shall not pay for services provided to a patient, resident or client who is not domiciled in Missouri unless the state is fully reimbursed for the services; except that the department may pay for services provided to a transient person for up to thirty days pending verification of his domiciliary state, and for services provided for up to thirty days in an emergency situation. The director shall promulgate rules for determination of the domiciliary state of any patient, resident or client receiving services from a facility, program or service operated or funded by the department.

4. Whenever a patient, resident or client is receiving services from a residential facility, day program or specialized service operated or funded by the department, and the state, county, municipality, parent, guardian or other person responsible for support of the patient, resident or client fails to pay any installment required to be paid for support, the department or the residential facility, day program or specialized service may discharge the patient, resident or client as provided by chapter 31, RSMo. The patient, resident or client shall not be discharged under this subsection until the final disposition of any appeal filed under subsection 2 of this section.

5. The standard means test may be waived for a child in need of mental health services to avoid inappropriate custody transfers to the children's division. The department of mental health shall notify the child's parent or custodian that the standard means test may be waived. The department of mental health shall promulgate rules for waiving the standard means test. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

Approved March 10, 2004

SB 1006 [SCS SB 1006]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates a portion of Missouri Route 364 in St. Louis County as the "Buzz Westfall Memorial Highway."

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the designation of a memorial highway.

SECTION

A. Enacting clause.

227.322. Buzz Westfall Memorial Highway designated for a portion of Route 364 in St. Louis County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.322, to read as follows:

227.322. BUZZ WESTFALL MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF ROUTE 364 IN ST. LOUIS COUNTY. — The portion of Missouri route 364 in St. Louis County from interstate highway 270 to the crossing of the Missouri River, known as the Veterans Memorial Bridge, being that portion of route 364 extending from station 31+386.04 to station 23+292, shall be designated the "Buzz Westfall Memorial Highway". The Buzz Westfall Memorial Highway shall not include any portion of the Veterans Memorial Bridge.

Approved July 1, 2004

SB 1012 [HCS SB 1012]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to the collection of property taxes.

AN ACT to repeal sections 139.031, 140.340, and 140.730, RSMo, and to enact in lieu thereof three new sections relating to the collection of taxes.

SECTION

- A. Enacting clause.
- 139.031. Payment of current taxes under protest — action, when commenced, how tried — refunds, how made, may be used as credit for next year's taxes — interest, when allowed — collector to invest protested taxes, disbursement to taxing authorities, when.
- 140.340. Redemption, when — manner.
- 140.730. Procedure for collection of personal taxes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 139.031, 140.340, and 140.730, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 139.031, 140.340, and 140.730, to read as follows:

139.031. PAYMENT OF CURRENT TAXES UNDER PROTEST — ACTION, WHEN COMMENCED, HOW TRIED — REFUNDS, HOW MADE, MAY BE USED AS CREDIT FOR NEXT YEAR'S TAXES — INTEREST, WHEN ALLOWED — COLLECTOR TO INVEST PROTESTED TAXES, DISBURSAL TO TAXING AUTHORITIES, WHEN. — 1. Any taxpayer may protest all or any part of any **current** taxes assessed against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any **current** taxes under protest shall, at the time of paying such taxes, file with the collector a written statement setting forth the grounds on which the protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. Upon receiving payment of **current** taxes under protest pursuant to subsection 1 of this section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are in dispute. Except as provided in subsection 3 of this section, every taxpayer protesting the payment of **current** taxes shall, within ninety days after filing his protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the collector maintains his office. If any taxpayer so protesting his taxes shall fail to commence an action in the circuit court for the recovery of the taxes protested within the time prescribed in this

subsection, such protest shall become null and void and of no effect, and the collector shall then disburse to the proper official the taxes impounded, and any interest earned thereon, as provided above in this subsection.

3. No action against the collector shall be commenced by any taxpayer who has, for the **current** tax year in issue, filed with the state tax commission a timely and proper appeal of the protested taxes. Such taxpayer shall notify the collector of the appeal in the written statement required by subsection 1 of this section. The taxes so protested shall be impounded in a separate fund and the commission may order all or any part of such taxes refunded to the taxpayer, or may authorize the collector to release and disburse all or any part of such taxes in its decision and order issued pursuant to chapter 138, RSMo.

4. Trial of the action in the circuit court shall be in the manner prescribed for nonjury civil proceedings, and, after determination of the issues, the court shall make such orders as may be just and equitable to refund to the taxpayer all or any part of the **current** taxes paid under protest, together with any interest earned thereon, or to authorize the collector to release and disburse all or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials of the taxing authorities. Either party to the proceedings may appeal the determination of the circuit court.

5. All the county collectors of taxes, and the collector of taxes in any city not within a county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax liability in the following taxable year and subsequent consecutive taxable years until the taxpayer has received credit in full for any real or personal property tax mistakenly or erroneously levied against the taxpayer and collected in whole or in part by the collector. Such application shall be filed within three years after the tax is mistakenly or erroneously paid. The governing body, or other appropriate body or official of the county or city not within a county, shall make available to the collector funds necessary to make refunds under this subsection by issuing warrants upon the fund to which the mistaken or erroneous payment has been credited, or otherwise.

6. No taxpayer shall receive any interest on any money paid in by the taxpayer erroneously.

7. All protested taxes shall be invested by the collector in the same manner as assets specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled to a refund of protested taxes shall also receive the interest earned on the investment thereof. If the collector is ordered to release and disburse all or part of the taxes paid under protest to the proper official, such taxes shall be disbursed along with the proportional amount of interest earned on the investment of the taxes due the particular taxing authority.

8. On or before March first next following the delinquent date of taxes paid under protest, the county collector shall notify any taxing authority of the taxes paid under protest which would be received by such taxing authority if the funds were not the subject of a protest. Any taxing authority may apply to the circuit court of the county or city not within a county in which a collector has impounded protested taxes under this section and, upon a satisfactory showing that such taxing authority would receive such impounded tax funds if they were not the subject of a protest and that such taxing authority has the financial ability and legal capacity to repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursement of all or any part of such impounded tax funds to such taxing authority. The circuit court issuing an order under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any protested tax funds refunded to a taxpayer were disbursed to a taxing authority under this subsection instead of being held and invested by the collector under subsection 7 of this section, such taxing authority shall pay the taxpayer entitled to the refund of such protested taxes the same amount of interest, as determined by the circuit court having jurisdiction in the matter, such protested taxes would have earned if they had been held and invested by the collector.

9. No appeal filed shall stay any order of refund, but the decision filed by any court of last review modifying the circuit court's or state tax commission's determination pertaining to the

amount of refund shall be binding on the parties, and the decision rendered shall be complied with by the party affected by any modification within ninety days of the date of such decision. No taxpayer shall receive any interest on any additional award of refund, and the collector shall not receive any interest on any ordered return of refund in whole or in part.

140.340. REDEMPTION, WHEN — MANNER. — 1. The owner or occupant of any land or lot sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the one year next ensuing, in the following manner: By paying to the county collector, for the use of the purchaser, his heirs or assigns, the full sum of the purchase money named in his certificate of purchase and all the cost of the sale together with interest at the rate specified in such certificate, not to exceed ten percent annually, **except on a sum paid by a purchaser in excess of the delinquent taxes due plus costs of the sale, no interest shall be owing on the excess amount**, with all subsequent taxes which have been paid thereon by the purchaser, his heirs or assigns, with interest at the rate of eight percent per annum on such taxes subsequently paid, and in addition thereto the person redeeming any land shall pay the costs incident to entry of recital of such redemption.

2. Upon deposit with the county collector of the amount necessary to redeem as herein provided, it shall be the duty of the county collector to mail to the purchaser, his heirs or assigns, at the last post-office address if known, and if not known, then to the address of the purchaser as shown in the record of the certificate of purchase, notice of such deposit for redemption.

3. Such notice, given as herein provided, shall stop payment to the purchaser, his heirs or assigns, of any further interest or penalty.

4. In case the party purchasing said land, his heirs or assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the one year next following the date of sale, no interest shall be charged or collected from the redemptioner after that time.

140.730. PROCEDURE FOR COLLECTION OF PERSONAL TAXES. — 1. Tangible personal property taxes assessed on and after January 1, 1946 and all personal taxes delinquent at that date, shall constitute a debt, as of the date on which such taxes were levied for which a personal judgment may be recovered against the party assessed with such taxes before any court of this state having jurisdiction.

2. All actions commenced pursuant to this law shall be prosecuted in the name of the state of Missouri, at the relation and to the use of the collector and against the person or persons named in the tax bill, and in one petition and in one count thereof may be included the said taxes for all such years as may be delinquent and unpaid, and said taxes shall be set forth in a tax bill or bills of said personal back taxes duly authenticated by the certificate of the collector and filed with the petition; and said tax bill or tax bills so certified shall be prima facie evidence that the amount claimed in said suit is just and correct, and all notices and process in suits pursuant to this chapter shall be sued and served in the same manner as in civil actions, and the general laws of this state as to practice and proceedings and appeals and writs of error in civil cases shall apply, as far as applicable, to the above actions; provided, however, that in no case shall the state, county, city or collector be liable for any costs nor shall any be taxed against them or any of them.

3. For the purpose of this chapter, personal tax bills shall become delinquent on the first day of January following the [day when said bills are placed in the hands of the collector] **year the taxes are due**, and suits thereon may be instituted on and after the first day of February following, and within three years from said day. **If the collector, after using due diligence, is unable to collect any personal property taxes charged in the delinquent tax list within three years following the year the taxes are due, the collector may remove such personal property taxes from the delinquent or back taxes books in the same manner as real estate is removed under section 137.260, RSMo. Such abated amounts shall be reported on the annual settlement made by a collector of revenue.**

4. Said personal tax shall be presented and allowed against the estates of deceased or insolvent debtors, in the same manner and with like effect, as other indebtedness of said debtors. The remedy hereby provided for the collection of personal tax bills is cumulative, and shall not in any manner impair other methods existing or hereafter provided for the collection of the same.

Approved June 25, 2004

SB 1020 [CCS HS HCS SCS SBs 1020, 889 & 869]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of Sunshine Law.

AN ACT a1 To repeal sections 493.050, 610.010, 610.011, 610.015, 610.020, 610.021, 610.022, 610.023, 610.026, 610.027, 610.029, 610.100, and 610.200, RSMo, and to enact in lieu thereof fifteen new sections relating to public records, with penalty provisions and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 493.050. Public advertisements and orders of publication published only in certain newspapers.
- 610.010. Definitions.
- 610.011. Liberal construction of law to be public policy.
- 610.015. Votes, how taken.
- 610.020. Notice of meetings, when required — recording of meetings to be allowed, guidelines, penalty — accessibility of meetings — minutes of meetings to be kept, content — voting records to be included.
- 610.021. Closed meetings and closed records authorized when, exceptions — sunset dates for certain exceptions.
- 610.022. Closed meetings, procedure and limitation — public records presumed open unless exempt — objections to closing meetings or records, procedure.
- 610.023. Records of governmental bodies to be in care of custodian, duties — records may be copied but not removed, exception, procedure — denial of access, procedure.
- 610.025. Electronic transmission of messages relating to public business, requirements.
- 610.026. Fees for copying public records, limitations — fee money remitted to whom — tax, license or fee as used in Missouri Constitution article X section 22 not to include copying fees.
- 610.027. Violations — remedies, procedure, penalty, purposeful violations — validity of actions by governing bodies in violation — governmental bodies may seek interpretation of law, attorney general to provide.
- 610.029. Governmental agencies to provide information by electronic services, contracts for public records databases, requirements, electronic services defined — division of data processing may be consulted.
- 610.100. Definitions — arrest and incident records shall be available to public — closed records, when — record redacted, when — access to incident reports, record redacted, when — action for disclosure of investigative report authorized, costs — application to open incident and arrest reports, violations, civil penalty — identity of victim of sexual offense.
- 610.200. Law enforcement agency log or record of suspected crimes, accidents or complaints, available for inspection and copying.
 - 1. Internet web sites, required postings.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 493.050, 610.010, 610.011, 610.015, 610.020, 610.021, 610.022, 610.023, 610.026, 610.027, 610.029, 610.100, and 610.200, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 493.050, 610.010, 610.011, 610.015, 610.020, 610.021, 610.022, 610.023, 610.025, 610.026, 610.027, 610.029, 610.100, 610.200, and 1, to read as follows:

493.050. PUBLIC ADVERTISEMENTS AND ORDERS OF PUBLICATION PUBLISHED ONLY IN CERTAIN NEWSPAPERS. — **1.** All public advertisements and orders of publication required by law to be made and all legal publications affecting the title to real estate, shall be published in some daily, triweekly, semiweekly or weekly newspaper of general circulation in the county where located and which shall have been admitted to the post office as periodicals class matter in the city of publication; shall have been published regularly and consecutively for a period of three years, except that a newspaper of general circulation may be deemed to be the successor to a defunct newspaper of general circulation, and subject to all of the rights and privileges of said prior newspaper under this statute, if the successor newspaper shall begin publication no later than thirty consecutive days after the termination of publication of the prior newspaper; shall have a list of bona fide subscribers voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time; provided, that when a public notice, required by law, to be published once a week for a given number of weeks, shall be published in a daily, triweekly, semiweekly or weekly newspaper, the notice shall appear once a week, on the same day of each week, and further provided, that every affidavit to proof of publication shall state that the newspaper in which such notice was published has complied with the provisions of this section; provided further, that the duration of consecutive publication provided for in this section shall not affect newspapers which have become legal publications prior to September 6, 1937; provided, however, that when any newspaper shall be forced to suspend publication in any time of war, due to the owner or publisher being inducted into the armed forces of the United States, the newspaper may be reinstated within one year after actual hostilities have ceased, with all the benefits provided pursuant to the provisions of this section, upon the filing with the secretary of state of notice of intention of such owner or publisher, the owner's surviving spouse or legal heirs, to republish such newspaper, setting forth the name of the publication, its volume and number, its frequency of publication, and its readmission to the post office where it was previously entered as periodicals class mail matter, and when it shall have a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time. All laws or parts of laws in conflict with this section except sections 493.070 to 493.120, are hereby repealed.

2. If a county is served by only one newspaper that has been published regularly and consecutively for a period of two years and that meets all other publication, postal, and subscription requirements under subsection 1 of this section, that newspaper shall be qualified to publish all public advertisements and orders of publication required by law, and all legal publications affecting the title to real estate. This subsection shall expire on June 30, 2006.

610.010. DEFINITIONS. — As used in [sections 610.010 to 610.030 and sections 610.100 to 610.150] **this chapter**, unless the context otherwise indicates, the following terms mean:

(1) "Closed meeting", "closed record", or "closed vote", any meeting, record or vote closed to the public;

(2) "Copying", if requested by a member of the public, copies provided as detailed in section 610.026, if duplication equipment is available;

(3) "Public business", all matters which relate in any way to the performance of the public governmental body's functions or the conduct of its business;

(4) "Public governmental body", any legislative, administrative or governmental entity created by the constitution or statutes of this state, by order or ordinance of any political subdivision or district, judicial entities when operating in an administrative capacity, or by executive order, including:

(a) Any body, agency, board, bureau, council, commission, committee, board of regents or board of curators or any other governing body of any institution of higher education, including a community college, which is supported in whole or in part from state funds, **including but not**

limited to the administrative entity known as "The Curators of the University of Missouri" as established by section 172.020, RSMo;

(b) Any advisory committee or commission appointed by the governor by executive order;

(c) Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other subdistricts of any political subdivision;

(d) Any other legislative or administrative governmental deliberative body under the direction of three or more elected or appointed members having rulemaking or quasi-judicial power;

(e) Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above-named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the public governmental body's governing board or its chief administrative officer, policy or policy revisions or expenditures of public funds including, but not limited to, entities created to advise bi-state taxing districts regarding the expenditure of public funds, or any policy advisory body, policy advisory committee or policy advisory group appointed by a president, chancellor or chief executive officer of any college or university system or individual institution at the direction of the governing body of such institution which is supported in whole or in part with state funds for the specific purpose of recommending directly to the public governmental body's governing board or the president, chancellor or chief executive officer policy, policy revisions or expenditures of public funds provided, however, the staff of the college or university president, chancellor or chief executive officer shall not constitute such a policy advisory committee. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this subdivision; [and]

(f) Any quasi-public governmental body. The term "quasi-public governmental body" means any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of chapter 352, 353, or 355, RSMo, or unincorporated association which either:

a. Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or

b. Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation; **and**

(g) Any bi-state development agency established pursuant to section 70.370, RSMo;

(5) "Public meeting", any meeting of a public governmental body subject to sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated, whether [corporeal or] **such meeting is conducted in person or** by means of communication equipment, **including, but not limited to, conference call, video conference, internet chat, or internet message board.** The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this chapter, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one location in order to conduct public business;

(6) "Public record", any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document

or study prepared [and presented to] **for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body**; provided, however, that personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. **Any document or study prepared for a public governmental body by a consultant or other professional service as described in this subdivision shall be retained by the public governmental body in the same manner as any other public record;**

(7) "Public vote", any vote, **whether conducted in person, by telephone, or by any other electronic means**, cast at any public meeting of any public governmental body.

610.011. LIBERAL CONSTRUCTION OF LAW TO BE PUBLIC POLICY. — 1. It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to [610.028] **610.200** shall be liberally construed and their exceptions strictly construed to promote this public policy.

2. Except as otherwise provided by law, all public meetings of public governmental bodies shall be open to the public as set forth in section 610.020, all public records of public governmental bodies shall be open to the public for inspection and copying as set forth in sections 610.023 to 610.026, and all public votes of public governmental bodies shall be recorded as set forth in section 610.015.

610.015. VOTES, HOW TAKEN. — Except as provided in section 610.021, rules authorized pursuant to article III of the Missouri Constitution and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication. **All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for the Missouri General Assembly and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.**

610.020. NOTICE OF MEETINGS, WHEN REQUIRED — RECORDING OF MEETINGS TO BE ALLOWED, GUIDELINES, PENALTY — ACCESSIBILITY OF MEETINGS — MINUTES OF MEETINGS TO BE KEPT, CONTENT — VOTING RECORDS TO BE INCLUDED. — 1. All public governmental bodies shall give notice of the time, date, and place of each meeting, and its tentative agenda, in a manner reasonably calculated to advise the public of the matters to be

considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

2. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours, exclusive of weekends and holidays when the facility is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. [At any public meeting conducted by telephone or other electronic means, the public shall be allowed to observe and attend the public meeting at a designated location identified in the notice of the meeting.] Every reasonable effort shall be made to grant special access to the meeting to handicapped or disabled individuals.

3. **A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of section 610.021 shall be permitted without permission of the public body; any person who violates this provision shall be guilty of a class C misdemeanor.**

[3.] 4. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

[4.] 5. A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

[5.] 6. If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.

[6.] 7. A journal or minutes of open **and closed** meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body.

610.021. CLOSED MEETINGS AND CLOSED RECORDS AUTHORIZED WHEN, EXCEPTIONS
— **SUNSET DATES FOR CERTAIN EXCEPTIONS.** — Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;

(2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public [within seventy-two hours after] **upon** execution of the lease, purchase or sale of the real estate;

(3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body [must] **shall** be made available with a record of how each member voted to the public within seventy-two hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used in this subdivision, the term "personal information" means information relating to the performance or merit of individual employees;

(4) The state militia or national guard or any part thereof;

(5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;

(6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores; however, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen years;

(7) Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again;

(8) Welfare cases of identifiable individuals;

(9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups;

(10) Software codes for electronic data processing and documentation thereof;

(11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid;

(12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected;

(13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such, **and the names of private sources donating or contributing**

money to the salary of a chancellor or president at all public colleges and universities in the state of Missouri and the amount of money contributed by the source;

(14) Records which are protected from disclosure by law;

(15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

(16) Records relating to municipal hot lines established for the reporting of abuse and wrongdoing;

(17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; **however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;**

(18) [A municipal utility receiving a public records request for information about existing or proposed security systems and structural plans of real property owned or leased by the municipal utility, the public disclosure of which would threaten public safety, shall within three business days act upon such public records request, pursuant to section 610.023. Records related to the procurement of or expenditures relating to security systems shall be open except to the extent provided in this section;] **Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall sunset on December 31, 2008;**

(19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, **and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure,** the public disclosure of which would threaten public safety[.];

(a) Records related to the procurement of or expenditures relating to security systems **purchased with public funds** shall be open [except to the extent provided in this section.];

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records[.];

(c) **Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;**

(d) This exception shall sunset on December 31, [2006] **2008;**

(20) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such

computer, computer system, computer network, or telecommunications network shall be open [except to the extent provided in this section]; and

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

610.022. CLOSED MEETINGS, PROCEDURE AND LIMITATION — PUBLIC RECORDS PRESUMED OPEN UNLESS EXEMPT — OBJECTIONS TO CLOSING MEETINGS OR RECORDS, PROCEDURE. — 1. Except as set forth in subsection 2 of this section, no meeting or vote may be closed without an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to a specific section of this chapter shall be announced publicly at an open meeting of the governmental body and entered into the minutes.

2. A public governmental body proposing to hold a closed meeting or vote shall give notice of the time, date and place of such closed meeting or vote and the reason for holding it by reference to the specific exception allowed pursuant to the provisions of section 610.021. Such notice shall comply with the procedures set forth in section 610.020 for notice of a public meeting.

3. Any meeting or vote closed pursuant to section 610.021 shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting [must] **shall** close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.

4. Nothing in sections 610.010 to 610.028 shall be construed as to require a public governmental body to hold a closed meeting, record or vote to discuss or act upon any matter.

5. Public records shall be presumed to be open unless otherwise exempt pursuant to the provisions of this chapter.

6. In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in this chapter 610, such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to section 610.027.

610.023. RECORDS OF GOVERNMENTAL BODIES TO BE IN CARE OF CUSTODIAN, DUTIES — RECORDS MAY BE COPIED BUT NOT REMOVED, EXCEPTION, PROCEDURE — DENIAL OF ACCESS, PROCEDURE. — 1. Each public governmental body is to appoint a custodian who is to be responsible for the maintenance of that body's records. The identity and location of a public governmental body's custodian is to be made available upon request.

2. Each public governmental body shall make available for inspection and copying by the public of that body's public records. No person shall remove original public records from the office of a public governmental body or its custodian without written permission of the designated custodian. No public governmental body shall, after August 28, 1998, grant to any person or entity, whether by contract, license or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.

3. Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records of a public governmental body. **If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available.** If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three days for reasonable cause.

4. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.

610.025. ELECTRONIC TRANSMISSION OF MESSAGES RELATING TO PUBLIC BUSINESS, REQUIREMENTS. — Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions of section 610.021.

610.026. FEES FOR COPYING PUBLIC RECORDS, LIMITATIONS — FEE MONEY REMITTED TO WHOM — TAX, LICENSE OR FEE AS USED IN MISSOURI CONSTITUTION ARTICLE X SECTION 22 NOT TO INCLUDE COPYING FEES. — 1. Except as otherwise provided by law, each public governmental body shall provide access to and, upon request, furnish copies of public records subject to the following:

(1) Fees for copying public records, **except those records restricted under section 32.091, RSMo**, shall not exceed [the actual cost of document search and duplication. Upon request, the governmental body shall certify in writing that the actual cost of document search and duplication is fair, reasonable and does not exceed the actual cost incurred by the public governmental body] **ten cents per page for a paper copy not larger than nine by fourteen inches, with the hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required for fulfilling records requests may be charged at the actual cost of research time. Based on the scope of the request, the public governmental body shall produce the copies using employees of the body that result in the lowest amount of charges for search, research, and duplication time. Prior to producing copies of the requested records, the person requesting the records may request the public governmental body to provide an estimate of the cost to the person requesting the records.** Documents may be furnished without charge or at a reduced charge when the public governmental body determines that waiver or reduction of the fee is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the public governmental body and is not primarily in the commercial interest of the requester;

(2) Fees for providing access to public records maintained on computer facilities, recording tapes or [discs] **disks**, videotapes or films, pictures, **maps**, slides, graphics, illustrations or similar audio or visual items or devices, **and for paper copies larger than nine by fourteen inches** shall include only the cost of copies, staff time, **which shall not exceed the average hourly rate of pay for staff of the public governmental body** required for making copies and programming, if necessary, and the **cost of the disk [or], tape, or other medium** used for the duplication. **Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.**

2. Payment of such copying fees may be requested prior to the making of copies.

3. Except as otherwise provided by law, each public governmental body of the state shall remit all moneys received by or for it from fees charged pursuant to this section to the director of revenue for deposit to the general revenue fund of the state.

4. Except as otherwise provided by law, each public governmental body of a political subdivision of the state shall remit all moneys received by it or for it from fees charged pursuant to sections 610.010 to 610.028 to the appropriate fiscal officer of such political subdivision for deposit to the governmental body's accounts.

5. The term "tax, license or fees" as used in section 22 of article X of the Constitution of the state of Missouri does not include copying charges and related fees that do not exceed the level necessary to pay or to continue to pay the costs for providing a service, program, or activity which was in existence on November 4, 1980, or which was approved by a vote of the people subsequent to November 4, 1980.

610.027. VIOLATIONS — REMEDIES, PROCEDURE, PENALTY, PURPOSEFUL VIOLATIONS — VALIDITY OF ACTIONS BY GOVERNING BODIES IN VIOLATION — GOVERNMENTAL BODIES MAY SEEK INTERPRETATION OF LAW, ATTORNEY GENERAL TO PROVIDE. — 1. The remedies provided by this section against public governmental bodies shall be in addition to those provided by any other provision of law. Any aggrieved person, taxpayer to, or citizen of, this state, or the attorney general or prosecuting attorney, may seek judicial enforcement of the requirements of sections 610.010 to 610.026. Suits to enforce sections 610.010 to 610.026 shall be brought in the circuit court for the county in which the public governmental body has its principal place of business. **Upon service of a summons, petition, complaint, counterclaim, or cross-claim in a civil action brought to enforce the provisions of sections 610.010 to 610.026, the custodian of the public record that is the subject matter of such civil action shall not transfer custody, alter, destroy, or otherwise dispose of the public record sought to be inspected and examined, notwithstanding the applicability of an exemption pursuant to section 610.021 or the assertion that the requested record is not a public record until the court directs otherwise.**

2. Once a party seeking judicial enforcement of sections 610.010 to 610.026 demonstrates to the court that the body in question is subject to the requirements of sections 610.010 to 610.026 and has held a closed meeting, record or vote, the burden of persuasion shall be on the body and its members to demonstrate compliance with the requirements of sections 610.010 to 610.026.

3. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has [purposely] **knowingly** violated sections 610.010 to [610.027] **610.026**, the public governmental body or the member shall be subject to a civil [fine in the amount of not more than five hundred dollars and] **penalty in an amount up to one thousand dollars. If the court finds that there is a knowing violation of sections 610.010 to 610.026**, the court may order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing a violation [of sections 610.010 to 610.026].

The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

4. Upon a finding by a preponderance of the evidence that a public governmental body or a member of a public governmental body has purposely violated section 610.010 to 610.026, the public governmental body or the member shall be subject to a civil penalty in an amount up to five thousand dollars. If the court finds that there was a purposeful violation of sections 610.010 to 610.026, then the court shall order the payment by such body or member of all costs and reasonable attorney fees to any party successfully establishing such a violation. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the public governmental body or member of a public governmental body has violated sections 610.010 to 610.026 previously.

5. Upon a finding by a preponderance of the evidence that a public governmental body has violated any provision of sections 610.010 to 610.026, a court shall void any action taken in violation of sections 610.010 to 610.026, if the court finds under the facts of the particular case that the public interest in the enforcement of the policy of sections 610.010 to 610.026 outweighs the public interest in sustaining the validity of the action taken in the closed meeting, record or vote. Suit for enforcement [must] **shall** be brought within one year from which the violation is ascertainable and in no event shall it be brought later than two years after the violation. This subsection shall not apply to an action taken regarding the issuance of bonds or other evidence of indebtedness of a public governmental body if a public hearing, election or public sale has been held regarding the bonds or evidence of indebtedness.

[5.] 6. A public governmental body which is in doubt about the legality of closing a particular meeting, record or vote may bring suit at the expense of that public governmental body in the circuit court of the county of the public governmental body's principal place of business to ascertain the propriety of any such action, or seek a formal opinion of the attorney general or an attorney for the governmental body.

610.029. GOVERNMENTAL AGENCIES TO PROVIDE INFORMATION BY ELECTRONIC SERVICES, CONTRACTS FOR PUBLIC RECORDS DATABASES, REQUIREMENTS, ELECTRONIC SERVICES DEFINED — DIVISION OF DATA PROCESSING MAY BE CONSULTED. — 1. A public governmental body keeping its records in an electronic format is strongly encouraged to provide access to its public records to members of the public in an electronic format. A public governmental body is strongly encouraged to make information available in usable electronic formats to the greatest extent feasible. **A public governmental body may not enter into a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of that agency, including public records that are on-line or stored in an electronic recordkeeping system used by the agency. Such contract may not allow any impediment that as a practical matter makes it more difficult for the public to inspect or copy the records than to inspect or copy the public governmental body's records. For purposes of this section, a useable electronic format shall allow, at a minimum, viewing and printing of records. However, if the public governmental body keeps a record on a system capable of allowing the copying of electronic documents into other electronic documents, the public governmental body shall provide data to the public in such electronic format, if requested.** The activities authorized pursuant to this section may not take priority over the primary responsibilities of a public governmental body. For purposes of this section the term "electronic services" means on-line access or access via other electronic means to an electronic file or data base. **This subsection shall not apply to contracts initially entered into before August 28, 2004.**

2. Public governmental bodies shall include in a contract for electronic services provisions that:

(1) Protect the security and integrity of the information system of the public governmental body and of information systems that are shared by public governmental bodies; and

(2) Limit the liability of the public governmental body providing the services.

3. Each public governmental body may consult with the division of data processing and telecommunications of the office of administration to develop the electronic services offered by the public governmental body to the public pursuant to this section.

610.100. DEFINITIONS — ARREST AND INCIDENT RECORDS SHALL BE AVAILABLE TO PUBLIC — CLOSED RECORDS, WHEN — RECORD REDACTED, WHEN — ACCESS TO INCIDENT REPORTS, RECORD REDACTED, WHEN — ACTION FOR DISCLOSURE OF INVESTIGATIVE REPORT AUTHORIZED, COSTS — APPLICATION TO OPEN INCIDENT AND ARREST REPORTS, VIOLATIONS, CIVIL PENALTY — IDENTITY OF VICTIM OF SEXUAL OFFENSE. — 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) "Arrest", an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

2. Each law enforcement agency of this state, of any county, and of any municipality, shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, RSMo, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the

record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his or her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If, based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of the information contained in an investigative report be released to the person bringing the action. In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity. The investigative report in question may be examined by the court in camera. The court may find that the party seeking disclosure of the investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has [purposely] **knowingly** violated this section, the officer or agency shall be subject to a civil penalty in an amount [not to exceed five hundred dollars, and] **up to one thousand dollars. If the court finds that there is a knowing violation of this section,** the court [shall] **may** order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027. **If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount up to five thousand dollars and the court shall order payment by such officer or agency of all costs and attorney fees, as provided in section 610.027. The court shall determine the amount of the penalty by taking into account the size of the jurisdiction, the seriousness of the offense, and whether the law enforcement officer or agency has violated this section previously.**

7. The victim of an offense as provided in chapter 566, RSMo, may request that his or her identity be kept confidential until a charge relating to such incident is filed.

610.200. LAW ENFORCEMENT AGENCY LOG OR RECORD OF SUSPECTED CRIMES, ACCIDENTS OR COMPLAINTS, AVAILABLE FOR INSPECTION AND COPYING. — [1. Except as provided in subsection 2 of this section] All law enforcement agencies that maintain a daily log or record that lists suspected crimes, accidents, or complaints, shall make available the following information for inspection and copying by the public:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency;
- (2) The time and nature of the agency's response to all complaints or requests for assistance; and
- (3) If the incident involves an alleged crime or infraction:
 - (a) The time, date, and location of occurrence;
 - (b) The name and age of any victim, unless the victim is a victim of a crime under chapter 566, RSMo;
 - (c) The factual circumstances surrounding the incident; and
 - (d) A general description of any injuries, property or weapons involved.

[2. Any law enforcement agency with custody of an accident report or incident report, as defined in section 610.100, shall not release for sixty days after the date of the accident or incident the report containing the factual circumstances or general description of any injuries as provided in paragraphs (c) and (d) of subdivision (3) of subsection 1 of this section to a person that is not an interested party. For the purposes of this subsection, an "interested party" is any law enforcement agency, any person who was involved in the accident or incident, the street department of the jurisdiction involved, the owner of any vehicle involved in the accident or incident, the insurance company, physician or family member of any person involved in the accident or incident or any attorney or any member of the news media.]

SECTION 1. INTERNET WEB SITES, REQUIRED POSTINGS. — **If any public school district hosts a district-sponsored Internet web site, that district shall post the following on such site:**

- (1) **A current version of that district's policy manual and all related documents; and**
- (2) **A current version of that district's handbook, or, if the district has more than one handbook, a current version of all of that district's handbooks.**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to alleviate any harm posed to the public from the lack of any qualified newspaper approved for public notices, the repeal and reenactment of section 493.050 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 493.050 of this act shall be in full force and effect upon its passage and approval.

Approved June 7, 2004

SB 1040 [SCS SB 1040]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to solid and hazardous waste management.

AN ACT to repeal sections 260.335, 260.370, 260.375, 260.380, 260.475, and 260.479, RSMo, and to enact in lieu thereof six new sections relating to hazardous waste management, with an emergency clause.

SECTION

- A. Enacting clause.
- 260.335. Distribution of fund moneys, uses — grants, distribution of moneys — advisory board, solid waste, duties.

- 260.370. Duties and powers of commission — rules and regulations to be adopted, procedures — inspection fees, use of, refund, when — variances granted, when — joint committee for fee restructuring authorized.
- 260.375. Duties of department — licenses required — permits required.
- 260.380. Duties of hazardous waste generators — fees to be collected, disposition — exemptions.
- 260.475. Fees to be paid by hazardous waste generators — exceptions — fee distribution — violations, penalty — deposit — fee requirement, expiration.
- 260.479. Commission to establish subdivisions of waste based on management, fees charged against generators — limits on certain fees — exceptions — fee distribution — expires, when.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 260.335, 260.370, 260.375, 260.380, 260.475, and 260.479, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 260.335, 260.370, 260.375, 260.380, 260.475, and 260.479, to read as follows:

260.335. DISTRIBUTION OF FUND MONEYS, USES — GRANTS, DISTRIBUTION OF MONEYS — ADVISORY BOARD, SOLID WASTE, DUTIES. — 1. For fiscal years 1992-1997, one million dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials, and beginning in fiscal year 1998, ten percent of the moneys in the solid waste management fund, **from August 28, 2004, to August 28, 2005**, not to exceed [one million] **eight hundred thousand** dollars, shall be made available for such purposes. Up to [fifteen] **nineteen** percent of such moneys may be used, upon appropriation, to administer the management of household hazardous waste and agricultural hazardous waste from family farms and family farm corporations, as defined in section 350.010, RSMo, to provide for establishment of an education program and a plan for the collection of household hazardous waste on a statewide basis by January 1, 2000. **After August 28, 2005, no more than one million dollars shall be made available for such purposes. Up to fifteen percent of such moneys may be used upon appropriation to administer the management of household hazardous waste and agricultural hazardous waste from family farms and family farm corporations, as defined in section 350.010, RSMo, to provide for establishment of an education program and a plan for the collection of household hazardous waste on a statewide basis by January 1, 2000.** The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining [moneys in] **revenues deposited into** the fund **each fiscal year** after moneys have been made available for market development under subsection 1 of this section shall be allocated as follows:

(1) **From August 28, 2004, to August 28, 2005**, up to [ten] **forty-two** percent of the [moneys] **revenues** shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally[;]

(2) Up to fifteen percent of the moneys may, upon appropriation, be used], **to conduct solid waste permitting activities**, to administer grants and perform other duties imposed in sections [260.255] **260.200** to 260.345 and section 260.432. **After August 28, 2005, up to twenty-five percent of the revenues shall be dedicated, upon appropriation, to the activities and duties authorized in this subdivision;**

[(3)] (2) **From August 28, 2004, to August 28, 2005**, at least [fifty] **fifty-eight** percent of the [moneys] **revenues** shall be allocated through grants, upon appropriation, to participating cities, counties, and districts [through grants or loans]. **After August 28, 2005, up to fifty percent of the revenues shall be allocated through grants, upon appropriation, to participating districts.** Forty percent of the revenue generated within each region and allocable under this subdivision may be allocated to the district upon approval of the department for implementation of a solid waste management plan **and district operations**, and sixty percent of the revenue generated within each region and allocable under this subdivision shall be allocated to the cities and counties [within] **of the district or to persons or entities providing solid waste management, waste reduction, recycling and related services in these cities and counties.** For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. **From August 28, 2004, to August 28, 2005**, each district shall receive a minimum of [forty-five] **seventy-five** thousand dollars under this subdivision. **After August 28, 2005, each district shall receive a minimum of forty-five thousand dollars under this subdivision.** Each district receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste management plan required under section 260.325, and only in the case that the district is in compliance with planning requirements established by the department, and shall submit, within ninety days of the end of the fiscal year, an audited report of the expenditure of all funds received under this subsection. Moneys shall be awarded based upon grant applications. Any moneys remaining in any fiscal year due to insufficient or inadequate applications may be reallocated pursuant to **this** subdivision [(4) of this subsection]. [Moneys received from a region without a district which are allocable under this subsection shall be accumulated through September 30, 1993, and may be allocated to any district which forms within the region before July 1, 1996, and to cities and counties within the district to further the purposes of sections 260.300 to 260.345. Moneys collected in and accumulated for a region without a district on June 30, 1996, shall be reallocated to existing districts after July 1, 1996, pursuant to this section;

(4) The] (3) **From August 28, 2004, to August 28, 2005**, any remaining moneys in the fund shall be used, upon appropriation, to provide grants [or loans] for **statewide** solid waste management **planning or research** projects to any district, county or city of the state or to any other person or entity involved in waste reduction or recycling **or for contracted services** to further the purposes of **section 260.225 and** sections 260.255 to 260.345[. Solid waste management districts may apply annually to the department for a three-to-one matching grant of up to twenty thousand dollars per district per year to be used for the purpose of district operations]. **After August 28, 2005, any remaining moneys in the fund shall be used, upon appropriation, to provide grants or loans for statewide solid waste management projects to any district, county or city of the state or to any other person or entity involved in waste reduction or recycling to further the purposes of sections 260.255 to 260.345. Solid waste management districts may apply annually to the department for a three-to-one matching grant of up to twenty thousand dollars per district per year to be used for the purpose of district operations;**

[(5)] (4) Funds may be made available under this subsection for the administration and grants of the used motor oil program described in section 260.253;

[(6)] (5) The department and the environmental improvement and energy resources authority shall conduct sample audits of grants provided under this subsection.

3. The advisory board created in section 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for proposals which provide methods of solid waste reduction and recycling. The department shall promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties located within a district which are funded by grants under this section shall conform to the district solid waste management plan.

4. **Beginning July 1, 2004, a joint committee appointed by the speaker of the house of representatives and the president pro tem of the senate shall consider proposals for fees, restructuring the distribution of the fees between solid waste districts, grant recipients, and the department. The committee shall consider options for the distribution of the tipping fee to the solid waste districts and any other matters it deems appropriate. The committee shall prepare and submit a report including its recommendation for changes to the governor, the house of representatives, and the senate no later than December 31, 2004.**

5. The funds awarded to the districts, counties and cities pursuant to this section shall be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition to existing funds appropriated by counties and cities for solid waste management and shall not supplant county or city appropriated funds.

[5.] 6. The department, in conjunction with the solid waste advisory board, shall review the performance of all grant recipients to ensure that grant moneys were appropriately and effectively expended to further the purposes of the grant, as expressed in the recipient's grant application. The grant application shall contain specific goals and implementation dates, and grant recipients shall be contractually obligated to fulfill same. The department may require the recipient to submit periodic reports and such other data as are necessary, both during the grant period and up to five years thereafter, to ensure compliance with this section. The department may audit the records of any recipient to ensure compliance with this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant recipient fails to maintain records or submit reports as required herein, refuses the department access to the records, or fails to meet the department's performance standards, the department may withhold subsequent grant payments, if any, and may compel the repayment of funds provided to the recipient pursuant to a grant. The department shall make available all of the unencumbered funds generated during prior fiscal years by the fees established under section 260.330 through grants or loans to solid waste management areas and processing facilities, municipalities, counties, districts, and other appropriate persons who demonstrate a need for assistance to comply with section 260.250. Such grants or loans shall be used for educational programs, transportation, low-interest or no-interest loans to purchase property for composting or other solid waste source reduction activities stated to facilitate compliance with section 260.250.

[6.] 7. The department shall provide for a security interest in any machinery or equipment purchased through grant moneys distributed pursuant to this section.

8. **If the moneys are not transmitted to the department within the time frame established by the rule promulgated, interest shall be imposed on the moneys due the department at the rate of ten percent per annum from the prescribed due date until payment is actually made. These interest amounts shall be deposited to the credit of the solid waste management fund.**

260.370. DUTIES AND POWERS OF COMMISSION — RULES AND REGULATIONS TO BE ADOPTED, PROCEDURES — INSPECTION FEES, USE OF, REFUND, WHEN — VARIANCES GRANTED, WHEN — JOINT COMMITTEE FOR FEE RESTRUCTURING AUTHORIZED. — 1. Where proven technology is available and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall encourage that every effort is made to effectively treat, recycle, detoxify, incinerate or otherwise treat hazardous waste to be disposed of in the state of Missouri in order that such wastes are not disposed of in a manner which is hazardous to the public health and the environment. Where proven technology is available with respect to a specific hazardous waste and the economic impact is reasonable, pursuant to rules and regulations promulgated by the commission, the hazardous waste management commission shall direct that disposal of the specific hazardous wastes using land filling as the primary method is prohibited.

2. The hazardous waste management commission shall, by rules and regulations, categorize hazardous waste by taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics. The commission shall by rules and regulations further establish within each category the wastes which may or may not be disposed of through alternative hazardous waste management technologies including, but not limited to, treatment facilities, incinerators, landfills, landfarms, storage facilities, surface impoundments, recycling, reuse and reduction. The commission shall specify, by rule and regulation, the frequency of inspection for each method of hazardous waste management and for the different waste categories at hazardous waste management sites. The inspection may be daily when the hazardous waste management commission deems it necessary. The hazardous waste management commission shall specify, by rule, fees to be paid to the department by owners or operators of hazardous waste facilities who have obtained, or are required to obtain, a hazardous waste facility permit and who accept, on a commercial basis for remuneration, hazardous waste from off-site sources, but not including wastes generated by the same person at other sites located in Missouri or within a metropolitan statistical area located partially in Missouri and owned or operated by the same person and transferred to the hazardous waste facility, for treatment, storage or disposal, for inspections conducted by the department to determine compliance with sections 260.350 to 260.430 and the regulations promulgated thereunder. Funds derived from these inspection fees shall be used for the purpose of funding the inspection of hazardous waste facilities, as specified in subsection 3 of section 260.391. Such fees shall not exceed twelve thousand dollars per year per facility and the commission shall establish a graduated fee scale based on the volume of hazardous waste accepted with reduced fees for facilities accepting smaller volumes of hazardous waste. The department shall furnish, upon request, to the person, firm or corporation operating the hazardous waste facility a complete, full and detailed accounting of the cost of the department's inspections of the facility for the twelve-month period immediately preceding the request within forty-five days after receipt of the request. Failure to provide the accounting within forty-five days shall require the department to refund the inspection fee paid during the twelve-month-time period.

3. In addition to any other powers vested in it by law, the commission shall have the following powers:

(1) From time to time adopt, amend or repeal, after due notice and public hearing, standards, rules and regulations to implement, enforce and carry out the provisions of sections 260.350 to 260.430 and any required of this state by any federal hazardous waste management act and as the commission may deem necessary to provide for the safe management of hazardous wastes to protect the health of humans and the environment. In implementing this subsection, the commission shall consider the variations within this state in climate, geology, population density, quantities and types of hazardous wastes generated, availability of hazardous waste facilities and such other factors as may be relevant to the safe management of hazardous wastes. Within two years after September 28, 1977, the commission shall adopt rules and regulations including the following:

(a) Rules and regulations establishing criteria and a listing for the determination of whether any waste or combination of wastes is hazardous for the purposes of sections 260.350 to 260.430, taking into account toxicity, persistence and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness and other hazardous characteristics;

(b) Rules and regulations for the storage, treatment and disposal of hazardous wastes;

(c) Rules and regulations for the transportation, containerization and labeling of hazardous wastes, which shall be consistent with those issued by the Missouri public service commission;

(d) Rules and regulations establishing standards for the issuance, modification, suspension, revocation or denial of such licenses and permits as are consistent with the purposes of sections 260.350 to 260.430;

(e) Rules and regulations establishing standards and procedures for the safe operation and maintenance of hazardous waste facilities in order to protect the health of humans and other living organisms;

(f) Rules and regulations listing those wastes or combinations of wastes, for which criteria have been established under paragraph (a) of this subdivision and which are not compatible and which may not be stored or disposed of together;

(g) Rules and regulations establishing procedures and requirements for the reporting of the generation, storage, transportation, treatment or disposal of hazardous wastes;

(2) Adopt and publish, after notice as required by the provisions of chapter 536, RSMo, pertaining to administrative rulemaking, and public hearing, a state hazardous waste management plan to provide for the safe and effective management of hazardous wastes within this state. This plan shall be adopted within two years after September 28, 1977, and revised at least once every five years thereafter;

(3) Hold hearings, issue notices of hearings and subpoenas requiring the attendance of witnesses and the production of evidence, administer oaths and take testimony as the commission deems necessary to accomplish the purposes of sections 260.350 to 260.430 or as required by any federal hazardous waste management act. Unless otherwise specified in sections 260.350 to 260.430, any of these powers may be exercised on behalf of the commission by any members thereof or a hearing officer designated by it;

(4) Grant individual variances in accordance with the provisions of sections 260.350 to 260.430;

(5) Make such orders as are necessary to implement, enforce and effectuate the powers, duties and purposes of sections 260.350 to 260.430.

4. No rule or portion of a rule promulgated under the authority of sections 260.350 to 260.480 and sections 260.565 to 260.575 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

5. Beginning July 1, 2004, a joint committee appointed by the speaker of the house of representatives and the president pro tem of the senate shall consider proposals for restructuring the fees paid by hazardous waste generators and hazardous waste facilities. The committee shall consider options for expanding the fee structure to more fairly apportion the cost of services provided among all those that benefit from those services. The committee shall prepare and submit a report including its recommendation for changes to the governor, the house of representatives, and the senate no later than December 31, 2004.

260.375. DUTIES OF DEPARTMENT — LICENSES REQUIRED — PERMITS REQUIRED. —
The department shall:

(1) Exercise general supervision of the administration and enforcement of sections 260.350 to 260.430 and all standards, rules and regulations, orders or license and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

(2) Develop and implement programs to achieve goals and objectives set by the state hazardous waste management plan;

(3) Retain, employ, provide for and compensate, within appropriations available therefor, such consultants, assistants, deputies, clerks and other employees on a full- or part-time basis as may be necessary to carry out the provisions of sections 260.350 to 260.430 and prescribe the times at which they shall be appointed and their powers and duties;

(4) Budget and receive duly appropriated moneys for expenditures to carry out the provisions of sections 260.350 to 260.430;

(5) Accept, receive and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of sections 260.350 to 260.430. Funds received by the department pursuant to this section shall

be deposited with the state treasurer and held and disbursed by him or her in accordance with the appropriations of the general assembly;

(6) Provide the commission all necessary support the commission may require to carry out its powers and duties including, but not limited to: keeping of records of all meetings; notification, at the direction of the chairman of the commission, of the members of the commission of the time, place and purpose of each meeting by written notice; drafting, for consideration of the commission, a state hazardous waste management plan and standards, rules and regulations necessary to carry out the purposes of sections 260.350 to 260.430; and investigation of petitions for variances and complaints made to the commission and submission of recommendations thereto;

(7) Collect and maintain, and require any person to collect and maintain, such records and information of hazardous waste generation, storage, transportation, resource recovery, treatment and disposal in this state, including quantities and types imported and exported across the borders of this state and install, calibrate and maintain and require any person to install, calibrate and maintain such monitoring equipment or methods, and make reports consistent with the purposes of sections 260.350 to 260.430;

(8) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise;

(9) Develop facts and make inspections and investigations, including gathering of samples and performing of tests and analyses, consistent with the purposes of sections 260.350 to 260.430, and in connection therewith, to enter or authorize any representative of the department to enter, at all reasonable times, in or upon any private or public property for any purpose required by sections 260.350 to 260.430 or any federal hazardous waste management act. Such entry may be for the purpose, without limitation, of developing or implementing standards, rules and regulations, orders or license or permit terms and conditions, of inspecting or investigating any records required to be kept by sections 260.350 to 260.430 or any license or permit issued pursuant to sections 260.350 to 260.430 or any hazardous waste management practice which the department or commission believes violates sections 260.350 to 260.430, or any standard, rule or regulation, order or license or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430, or otherwise endangers the health of humans or the environment, or the site of any suspected violation of sections 260.350 to 260.430, or any standard, rule or regulation, order, or license or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430. The results of any such investigation shall be reduced to writing and shall be furnished to the owner or operator of the property. No person shall refuse entry or access requested for the purpose of inspection pursuant to this subdivision to an authorized representative of the department or commission who presents appropriate credentials, nor obstruct or hamper the representative in carrying out the inspection. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath, shall be issued by any judge or associate circuit judge having jurisdiction to any such representative for the purpose of enabling the representative to make such inspection;

(10) Require each hazardous waste generator located within this state and each hazardous waste generator located outside of this state before utilizing any hazardous waste facility in this state **except as provided in subdivision (11) of this section** to file a registration report containing such information as the commission by regulation may specify relating to types and quantities of hazardous waste generated and methods of hazardous waste management, and to meet all other requirements placed upon hazardous waste generators by sections 260.350 to 260.430 and the standards, rules and regulations and orders adopted or issued pursuant to sections 260.350 to 260.430;

(11) **Allow Missouri treatment, storage, and disposal facilities receiving hazardous waste from out-of-state generators to submit registration and reporting information to the department in a format prescribed by the department describing the types and quantities of hazardous waste received from the out-of-state generator;**

(12) Require each hazardous waste transporter operating in this state to obtain a license and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules and regulations, orders and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

[(12)] (13) Require each hazardous waste facility owner and operator to obtain a permit for each such facility and to meet all applicable requirements of sections 260.350 to 260.430 and the standards, rules and regulations, orders and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

[(13)] (14) Issue, continue in effect, revoke, modify or deny in accordance with the standards, rules and regulations, hazardous waste transporter licenses and hazardous waste facility permits;

[(14)] (15) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of sections 260.350 to 260.430;

[(15)] (16) Enter such order or determination as may be necessary to effectuate the provisions of sections 260.350 to 260.430 and the standards, rules and regulations, and license and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430;

[(16)] (17) Enter such order or cause to be instituted in a court of competent jurisdiction such legal proceedings as may be necessary in a situation of imminent hazard, as prescribed in section 260.420;

[(17)] (18) Settle or compromise as it may deem advantageous to the state, with the approval of the commission, any suit undertaken by the commission for recovery of any penalty or for compelling compliance with any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430;

[(18)] (19) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 260.350 to 260.430 and, upon request, consult with persons subject to sections 260.350 to 260.430 on the proper measures necessary to comply with the requirements of sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430;

[(19)] (20) Encourage, coordinate, participate in or conduct studies, investigations, research and demonstrations relating to hazardous waste management as it may deem advisable and necessary for the discharge of its duties pursuant to sections 260.350 to 260.430;

[(20)] (21) Represent the state of Missouri in all matters pertaining to interstate hazardous waste management including the negotiation of interstate compacts or agreements;

[(21)] (22) Arrange for the establishment, staffing, operation and maintenance of collection stations, within appropriations or other funding available therefor, for householders, farmers and other exempted persons as provided in section 260.380;

[(22)] (23) Collect and disseminate information relating to hazardous waste management;

[(23)] (24) Conduct education and training programs on hazardous waste problems and management;

[(24)] (25) Encourage and facilitate public participation in the development, revision and implementation of the state hazardous waste program;

[(25)] (26) Encourage waste reduction, resource recovery, exchange and energy conservation in hazardous waste management;

[(26)] (27) Exercise all powers necessary to carry out the provisions of sections 260.350 to 260.430, assure that the state of Missouri complies with any federal hazardous waste management act and retains maximum control thereunder, and receives all desired federal grants, aid and other benefits;

[(27)] (28) Present to the public, at a public meeting, and to the governor and the members of the general assembly, an annual report on the status of the state hazardous waste program;

[(28)] **(29)** Develop comprehensive plans and programs to aid in the establishment of hazardous waste disposal sites as needed within the various geographical areas of the state within a reasonable period of time;

[(29)] **(30)** Control, abate or clean up any hazardous waste placed into or on the land in a manner which endangers or is reasonably likely to endanger the health of humans or the environment and, in aid thereof, may cause to be filed by the attorney general or a prosecuting attorney, a suit seeking mandatory or prohibitory injunctive relief or such other relief as may be appropriate. The department shall also take such action as is necessary to recover all costs associated with the cleanup of any hazardous waste from the person responsible for the waste. All money received shall be deposited in the hazardous waste fund created in section 260.391;

[(30)] **(31)** Oversee any corrective action work undertaken pursuant to sections 260.350 to 260.430 and rules promulgated pursuant to sections 260.350 to 260.430 to investigate, monitor, or clean up releases of hazardous waste or hazardous constituents to the environment at hazardous waste facilities. The department shall review the technical and regulatory aspects of corrective action plans, reports, documents, and associated field activities, and attest to their accuracy and adequacy. Owners or operators of hazardous waste facilities performing corrective actions shall pay to the department all reasonable costs, as determined by the commission, incurred by the department pursuant to this subdivision. All such funds remitted by owners or operators of hazardous waste facilities performing corrective actions shall be deposited in the hazardous waste fund created in section 260.391.

260.380. DUTIES OF HAZARDOUS WASTE GENERATORS — FEES TO BE COLLECTED, DISPOSITION — EXEMPTIONS. — 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, hazardous waste generators shall:

(1) Promptly file and maintain with the department, on registration forms it provides for this purpose, information on hazardous waste generation and management as specified by rules and regulations[, and the hazardous waste generator may provide such information in a single registration form for all hazardous waste generation sites owned or operated by the hazardous waste generator or may register each hazardous waste generation site separately for the purposes of subdivision (10) of this subsection]; **except that generators located outside of Missouri shall not be required to register with the department if the Missouri treatment, storage, and disposal facilities provide this information in accordance with subdivision (11) of section 260.375. Missouri treatment, storage, or disposal facilities providing this information to the department for those out-of-state generators shall do so and shall pay the applicable initial registration fee within fifteen days of accepting any hazardous waste from those out-of-state generators.** Hazardous waste generators shall pay a one hundred dollar registration fee upon initial registration, and a one hundred dollar registration renewal fee annually thereafter to maintain an active registration; **except that in accordance with subdivision (11) of section 260.375, Missouri treatment, storage, or disposal facilities receiving hazardous waste from out-of-state generators that elect to provide this service for the out-of-state generator shall pay this fee on behalf of those out-of-state generators. For annual renewal fee payments, Missouri treatment, storage, or disposal facilities that elect to provide this service to out-of-state generators shall notify the department annually of those generators at a time and in a manner prescribed by the department.** Such fees shall be deposited in the hazardous waste fund created in section 260.391;

(2) Containerize and label all hazardous wastes as specified by standards, rules and regulations;

(3) Segregate all hazardous wastes from all nonhazardous wastes and from noncompatible wastes, materials and other potential hazards as specified by standards, rules and regulations;

(4) Provide safe storage and handling, including spill protection, as specified by standards, rules and regulations, for all hazardous wastes from the time of their generation to the time of their removal from the site of generation;

(5) Unless provided otherwise in the rules and regulations, utilize only a hazardous waste transporter holding a license pursuant to sections 260.350 to 260.430 for the removal of all hazardous wastes from the premises where they were generated;

(6) Unless provided otherwise in the rules and regulations, provide a separate manifest to the transporter for each load of hazardous waste transported from the premises where it was generated. The generator shall specify the destination of such load on the manifest. The manner in which the manifest shall be completed, signed and filed with the department shall be in accordance with rules and regulations;

(7) Utilize for treatment, resource recovery, disposal or storage of all hazardous wastes, only a hazardous waste facility authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act, or any facility exempted from the permit required pursuant to section 260.395;

(8) Collect and maintain such records, perform such monitoring or analyses, and submit such reports on any hazardous waste generated, its transportation and final disposition, as specified in sections 260.350 to 260.430 and rules and regulations adopted pursuant to sections 260.350 to 260.430; **except that generators located outside of Missouri shall not be required to complete this reporting if the information is provided by the Missouri treatment, storage, and disposal facilities in accordance with subdivision (11) of section 260.375;**

(9) Make available to the department upon request samples of waste and all records relating to hazardous waste generation and management for inspection and copying and allow the department to make unhampered inspections at any reasonable time of hazardous waste generation and management facilities located on the generator's property and hazardous waste generation and management practices carried out on the generator's property;

(10) Pay annually, on or before January first of each year, effective January 1, 1982, a fee to the state of Missouri to be placed in the hazardous waste fund to be used solely for the administrative costs of the program. The fee shall not exceed one dollar per ton of hazardous waste registered with the department as specified in subdivision (1) of this subsection for the twelve-month period ending June thirtieth of the previous year. The amount of the fee shall be established annually by the commission by rule or regulation. However, the fee shall not exceed ten thousand dollars per generator per year and no fee shall be imposed upon any generator who registers less than ten tons of hazardous waste annually with the department;

(a) All moneys payable pursuant to the provisions of this subdivision shall be promptly transmitted to the department of revenue, which shall deposit the same in the state treasury to the credit of the hazardous waste fund created in section 260.391;

(b) The hazardous waste management commission shall establish and submit to the department of revenue procedures relating to the collection of the fees authorized by this subdivision. Such procedures shall include, but not be limited to, necessary records identifying the quantities of hazardous waste registered, the form and submission of reports to accompany the payment of fees, the time and manner of payment of fees, which shall not be more often than quarterly.

2. Exempted from the requirements of this section are individual householders and farmers who generate only small quantities of hazardous waste and any person the commission determines generates only small quantities of hazardous waste on an infrequent basis, except that:

(1) Householders, farmers and exempted persons shall manage all hazardous wastes they may generate in a manner so as not to adversely affect the health of humans, or pose a threat to the environment, or create a public nuisance; and

(2) The department may determine that a specific quantity of a specific hazardous waste requires special management. Upon such determination and after public notice by press release or advertisement thereof, including instructions for handling and delivery, generators exempted pursuant to this subsection shall deliver, but without a manifest or the requirement to use a licensed hazardous waste transporter, such waste to:

(a) Any storage, treatment or disposal site authorized to operate pursuant to sections 260.350 to 260.430 or the federal Resource Conservation and Recovery Act, or a state hazardous waste management program authorized pursuant to the federal Resource Conservation and Recovery Act which the department designates for this purpose; or

(b) A collection station or vehicle which the department may arrange for and designate for this purpose.

260.475. FEES TO BE PAID BY HAZARDOUS WASTE GENERATORS — EXCEPTIONS — FEE DISTRIBUTION — VIOLATIONS, PENALTY — DEPOSIT — FEE REQUIREMENT, EXPIRATION.

— 1. Every hazardous waste generator shall pay, in addition to the fees imposed in section 260.380, a fee of twenty-five dollars per ton annually on all hazardous waste which is discharged, deposited, dumped or placed into or on the soil as a final action, and two dollars per ton on all other hazardous waste transported off site. No fee shall be imposed upon any hazardous waste generator who registers less than ten tons of hazardous waste annually pursuant to section 260.380, or upon:

(1) Hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site;

(2) Fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;

(3) Solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore and smelter slag waste from the processing of materials into reclaimed metals;

(4) Cement kiln dust waste;

(5) Waste oil; or

(6) Hazardous waste that is:

(a) Reclaimed or reused for energy and materials;

(b) Transformed into new products which are not wastes;

(c) Destroyed or treated to render the hazardous waste nonhazardous; or

(d) Waste discharged to a publicly owned treatment works.

2. The fees imposed in this section shall be reported and paid to the department on an annual basis not later than the first of January. The payment shall be accompanied by a return in such form as the department may prescribe.

3. [Sixty] **Forty** percent of all moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste remedial fund created in section 260.480. [Forty] **Sixty** percent of all moneys collected or received by the department pursuant to this section shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the hazardous waste fund created pursuant to section 260.391. Following each annual reporting date, the state treasurer shall certify the amount deposited in the fund to the commission.

4. If any generator or transporter fails or refuses to pay the fees imposed by this section, or fails or refuses to furnish any information reasonably requested by the department relating to such fees, there shall be imposed, in addition to the fee determined to be owed, a penalty of fifteen percent of the fee, [sixty] **forty** percent of which shall be deposited in the hazardous waste remedial fund, and [forty] **sixty** percent of which shall be deposited in the hazardous waste fund.

5. If the fees or any portion of the fees imposed by this section are not paid by the date prescribed for such payment, there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date prescribed for its payment until payment is actually made, [sixty] **forty** percent of which shall be deposited in the hazardous waste remedial fund, [forty] **sixty** percent of which shall be deposited in the hazardous waste fund.

6. The state treasurer is authorized to deposit all of the moneys in the hazardous waste remedial fund in any of the qualified depositories of the state. All such deposits shall be secured in such a manner and shall be made upon such terms and conditions as are now or may hereafter

be provided for by law relative to state deposits. Interest received on such deposits shall be credited to the hazardous waste remedial fund.

7. [No fee shall be collected pursuant to this section after January 1, 2005.] **This fee shall expire June 30, 2006, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.**

260.479. COMMISSION TO ESTABLISH SUBDIVISIONS OF WASTE BASED ON MANAGEMENT, FEES CHARGED AGAINST GENERATORS — LIMITS ON CERTAIN FEES — EXCEPTIONS — FEE DISTRIBUTION — EXPIRES, WHEN. — 1. The hazardous waste management commission shall establish, by rule, two subdivisions of hazardous waste based upon the management method. Subdivision A shall include waste which is placed in a hazardous waste disposal facility or which is stored for a period of more than one hundred eighty days; provided, however, for the purposes of this section, the commission may identify hazardous waste which shall be taxed pursuant to subdivision A when stored for longer than ninety days as well as waste which may be stored for up to one year and taxed as provided in subdivision B below. Subdivision B shall include all other hazardous waste produced. The director shall annually request that a minimum of one million dollars be appropriated from general revenue funds for deposit in the hazardous waste remedial fund created pursuant to section 260.480.

2. Except as provided in this subsection and subsection 5 of this section, each hazardous waste generator registered with the department of natural resources, except the state and any political subdivision thereof, shall pay a fee based on the volume of waste produced in each of the subdivisions A and B as follows:

(1) For subdivision A waste, the fee shall be equal to 0.90785 times the amount of waste in short tons times the following sum: twenty-one dollars and eighty cents plus the product of 7.9890 cents times the amount of waste in short tons, except that the fee for subdivision A waste shall not exceed eighty thousand dollars; and

(2) For subdivision B waste, the fee shall be equal to 0.90785 times the amount of waste in short tons times the following sum: ten dollars and ninety cents plus the product of 3.9945 cents times the amount of waste in short tons, except that the fee for subdivision B waste shall not exceed forty thousand dollars.

No company shall pay more than eighty thousand dollars annually pursuant to this subsection; provided that all fee amounts established pursuant to this subsection may be adjusted annually by the commission by an amount not to exceed two and fifty-five hundredths percent. No individual generator subject to a fee pursuant to this section shall pay less than fifty dollars annually.

3. No tax shall be imposed pursuant to this section upon hazardous waste generators whose waste consists solely of waste oil or facilities licensed pursuant to chapter 197, RSMo. The commission may exempt intermittent generators or generators of very small volumes of hazardous waste from payment of fees required pursuant to this section, provided those generators comply with all other applicable provisions of sections 260.360 to 260.430.

4. Any hazardous waste generator registered with the department which discharges waste to a publicly owned treatment works having an approved pretreatment program as required by chapter 204, RSMo, shall not pay any fee required in sections 260.350 to 260.550 on such waste discharged which is in compliance with pretreatment requirements. The hazardous waste management commission may exempt such generators from the provisions of sections 260.350 to 260.430 if such exemption will not be in violation of the federal Resource Conservation and Recovery Act.

5. No fee shall be imposed pursuant to this section upon any hazardous waste which must be disposed of as provided by a remedial plan for an abandoned or uncontrolled hazardous waste site, or upon smelter slag waste from the processing of materials into reclaimed metals. Fees on hazardous waste fuel produced from hazardous waste by processing, blending or other off-site treatment shall be assessed and collected only at the facility where such hazardous waste fuel is

utilized as a substitute for other fuel. No facility using hazardous waste fuel shall pay more than eighty thousand dollars annually pursuant to this subsection for the first fiscal year fees are assessed pursuant to this section, and such maximum amount may be adjusted annually thereafter by the commission by an amount not to exceed two and fifty-five hundredths percent. This subsection shall not be construed to apply to hazardous waste used directly as a fuel that has not been processed, blended, or otherwise treated off site. Such waste shall be subject to the fees established in subsection 2 of this section.

6. The department may establish by rule and regulation categories of waste based upon waste characteristics pursuant to subsection 2 of section 260.370. When the commission adopts hazardous waste categories, it shall establish and annually revise a fee schedule based upon waste characteristics. Each generator shall annually pay a fee, in lieu of the fee required in subsection 2 of this section, based upon the volume of waste produced annually within each hazard category.

7. All fees within this section shall be based on hazardous waste produced within the preceding state fiscal year beginning with July first of the year this section goes into effect and payable at the end of the calendar year on December thirty-first and annually thereafter in the same manner; provided that no liability for fees shall be accrued pursuant to subsection 5 of this section for any waste used as a fuel prior to August 28, 2000.

8. The department shall promptly transmit [sixty] **forty** percent of all funds collected pursuant to this section to the director of revenue for deposit in the hazardous waste remedial fund created pursuant to section 260.480. The department shall promptly transmit [forty] **sixty** percent of all funds collected pursuant to this section to the director of revenue for deposit in the hazardous waste fund created pursuant to section 260.391.

9. Notwithstanding any other provision of law to the contrary, no tax based on the number of employees employed by a hazardous waste generator shall be collected. [No tax or fee shall be levied pursuant to this section after January 1, 2005.] **This fee shall expire June 30, 2006, except that the department shall levy and collect this fee for any hazardous waste generated prior to such date and reported to the department.**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to convene a task force to consider proposals for restructuring the fees paid by hazardous waste generators and hazardous waste facilities, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 22, 2004

SB 1055 [SB 1055]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to the Retirement Board of the Kansas City Police Civilian Employees' Retirement System.

AN ACT to repeal section 86.690, RSMo, and to enact in lieu thereof one new section relating to civilian employees' retirement system of the police department of Kansas City.

SECTION

A. Enacting clause.

86.690. Death of member prior to or following retirement, payments made, how — additional one thousand dollar funeral benefit paid, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 86.690, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 86.690, to read as follows:

86.690. DEATH OF MEMBER PRIOR TO OR FOLLOWING RETIREMENT, PAYMENTS MADE, HOW — ADDITIONAL ONE THOUSAND DOLLAR FUNERAL BENEFIT PAID, WHEN. — 1. Upon death after August 28, 2001, of a member for any cause prior to retirement, the following amounts shall be payable subject to subsection 5 of this section, as full and final settlement of any and all claims for benefits under this retirement system:

(1) If the member has less than five years of creditable service, the member's surviving spouse shall be paid, in a lump sum, the amount of accumulated contributions and interest. If there be no surviving spouse, payment shall be made to the member's designated beneficiary, or if none, to the executor or administrator of the member's estate.

(2) If the member has at least five, but less than twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, an annuity. Such annuity shall be one-half of the member's accrued annuity at date of death as computed in section 86.650. The effective date of the election shall be the latter of the first day of the month after the member's death or attainment of what would have been the member's early retirement date as provided in section 86.660.

(3) If the member has at least twenty years of creditable service, the member's surviving spouse may elect, in lieu of the lump sum settlement in subdivision (1) of this subsection, the larger of the annuity as computed in subdivision (2) of this subsection or an annuity determined on a joint and survivor's basis from the actuarial value of the member's accrued annuity at date of death.

(4) Any death of a retired member occurring before the date of first payment of the retirement annuity shall be deemed to be a death before retirement.

(5) Benefits payable pursuant to this section shall continue for the lifetime of such surviving spouse without regard to remarriage.

(6) No surviving spouse of a member who dies in service after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's death in service.

2. Upon death following retirement for any cause after August 28, 2001, of a member who has not elected the optional annuity pursuant to section 86.650, the member's surviving spouse shall receive a pension payable for life, equaling one-half of the member's normal retirement allowance, computed under section 86.650, as of the member's actual retirement date, subject to adjustments provided in subsection 5 of section 86.675, if any; provided, no surviving spouse of a member who retires after August 28, 2001, shall be entitled to receive any benefits pursuant to sections 86.600 to 86.790 unless such spouse was married to the member at the time of the member's retirement. Any surviving spouse who was married to such a member at the time of the member's retirement shall be entitled to all benefits for surviving spouses pursuant to sections 86.600 to 86.790 for the life of such surviving spouse without regard to remarriage. If there be no surviving spouse, payment of the member's accumulated contributions less the amount of any prior payments from the retirement system to the member or to any beneficiary of the member shall be made to the member's designated beneficiary or, if none, to the personal representative of the member's estate.

3. Any surviving spouse of a member who dies in service or retired prior to August 28, 2001, who otherwise qualifies for benefits pursuant to subsection 1 or 2 of this section and who has not remarried prior to August 28, 2001, but remarries thereafter, shall upon application to the retirement board be appointed by the retirement board as a special consultant on the problems

of retirement, aging and other matters, and upon request of the retirement board shall give opinions in writing or orally in response to such requests, as may be required. For such services, such surviving spouse shall be compensated in an amount equal to the benefits such spouse would have received pursuant to sections 86.600 to 86.790 in the absence of such remarriage.

4. Should the total amount paid from the retirement system to a member, the member's surviving spouse, any other beneficiary of the member, and the funeral benefit under subsection 6 of this section be less than the member's accumulated contributions, an amount equal to such difference shall be paid to the member's designated beneficiary or, if none, to the personal representative of the member's estate, and such payment shall constitute full and final payment of any and all claims for benefits under the retirement system.

5. Any beneficiary of benefits pursuant to sections 86.600 to 86.790 who becomes the surviving spouse of more than one member shall be paid all benefits due a surviving spouse of that member whose entitlements produce the largest surviving spouse benefits for such beneficiary but shall not be paid surviving spouse benefits as the surviving spouse of more than one member, except that any surviving spouse for whom an election has been made for an optional annuity under subsection 2 of section 86.650 shall be entitled to every annuity for which such surviving spouse has so contracted.

6. (1) Upon receipt of the proper proof of death of a member in service after August 28, 2003, or the death of a member in service on or after August 28, 2003, who dies after having been retired and pensioned, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.

(2) **Any member who was retired on or before August 28, 2003, and is receiving retirement benefits from the retirement system, upon application to the retirement board, shall be appointed by the retirement board as a special consultant on the problems of retirement, aging, and other matters, for the remainder of such member's life, and upon request of the retirement board shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. Upon receipt of the proper proof of death of such member, there shall be paid in addition to all other benefits a funeral benefit of one thousand dollars.**

Approved June 17, 2004

SB 1062 [SCS SB 1062]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates and modifies special licenses available to caterers to serve alcohol at certain functions.

AN ACT to amend chapter 311, RSMo, by adding thereto one new section relating to liquor licenses for caterers.

SECTION

A. Enacting clause.

311.486. Special license, drink at retail for consumption on the premises, when — duration of license — fees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 311, RSMo, is amended by adding thereto one new section, to be known as section 311.486, to read as follows:

311.486. SPECIAL LICENSE, DRINK AT RETAIL FOR CONSUMPTION ON THE PREMISES, WHEN — DURATION OF LICENSE — FEES. — 1. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a "festival" as defined in chapter 316, RSMo. The special license shall be effective for a maximum of fifty days during any year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of five hundred dollars a year payable at the same time and in the same manner as its other license fees.

2. The supervisor of alcohol and tobacco control may issue a special license to caterers and other persons holding licenses to sell intoxicating liquor by the drink at retail for consumption on the premises pursuant to the provisions of this chapter who furnish provisions and service for use at a particular function, occasion, or event at a particular location other than the licensed premises, but not including a "festival" as defined in chapter 316, RSMo. The special license shall be effective for an unlimited number of functions during the year, and shall authorize the service of alcoholic beverages at such function, occasion, or event during the hours at which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages for on-premises consumption. For every special license issued pursuant to the provisions of this subsection, the licensee shall pay to the director of revenue the sum of one thousand dollars a year payable at the same time and in the same manner as its other license fees.

3. Caterers issued a special license pursuant to subsections 1 and 2 of this section shall report to the supervisor of alcohol and tobacco control the location of each function three business days in advance. The report of each function shall include permission from the property owner and city, description of the premises, and the date or dates the function will be held.

4. Except as provided in subsection 5 of this section, all provisions of the liquor control law and the ordinances, rules and regulations of the incorporated city, or the unincorporated area of any county, in which is located the premises in which such function, occasion, or event is held shall extend to such premises and shall be in force and enforceable during all the time that the licensee, its agents, servants, employees, or stock are in such premises. Except for wines in the original package, the provisions of this section shall not include the sale of packaged goods covered by this special license.

5. Notwithstanding any other law to the contrary, any caterer who possesses a valid state and valid local liquor license may deliver alcoholic beverages, in the course of his or her catering business. A caterer who possesses a valid state and valid local liquor license need not obtain a separate license for each city the caterer delivers in, so long as such city permits any caterer to deliver alcoholic beverages within the city.

6. To assure and control product quality, wholesalers may, but shall not be required to, give a retailer credit for intoxicating liquor with an alcohol content of less than five percent by weight or nonintoxicating beer delivered and invoiced under the catering license number, but not used, if the wholesaler removes the product within seventy-two hours of the expiration of the catering function.

Approved July 7, 2004

SB 1078 [SCS SB 1078]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the criteria used for issuing extraordinary dividends by certain insurance holding companies.

AN ACT to repeal section 382.210, RSMo, and to enact in lieu thereof one new section relating to notice of extraordinary dividends in insurance holding company systems.

SECTION

A. Enacting clause.

382.210. Extraordinary dividend, notice of — payment from earned surplus, when — allowed, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 382.210, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 382.210, to read as follows:

382.210. EXTRAORDINARY DIVIDEND, NOTICE OF — PAYMENT FROM EARNED SURPLUS, WHEN — ALLOWED, WHEN. — 1. No insurer subject to registration under section 382.100 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the director has received notice of the declaration thereof and has not within such period disapproved such payment, or the director has approved the payment within such thirty-day period. For purposes of this section, **net income excludes net realized capital gains to the extent that realized capital gains exceed realized capital losses, and** an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of dividends or distributions made within the period of twelve consecutive months ending on the date on which the proposed dividends are scheduled for payment or distribution:

(1) For life [insurance companies and], title [insurance companies] **and property and casualty insurance companies**, such amount exceeds the greater of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is a title insurer, **or the net income if the insurer is a property and casualty insurer**, for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities;

(2) For all other insurers, such amount exceeds the lesser of ten percent of the insurer's surplus as regards policyholders as of the thirty-first day of December next preceding, or the net investment income for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

2. A life [or], title, **or property and casualty** insurer subject to registration under section 382.100 may only pay a shareholder dividend from earned surplus. With the prior approval of the director, a dividend may be declared from other than earned surplus.

3. No life [or], title, **or property and casualty** insurer subject to registration under section 382.100 shall pay any extraordinary dividend unless, after the transaction is completed, the company's surplus as regards policyholders is reasonable in relation to the company's outstanding liabilities and adequate to its financial needs. In making this determination, the director shall use the factors found in section 382.200 and may consider:

(1) The quality of the company's earnings and the extent to which the reported earnings include extraordinary items; or

(2) The recent past and projected future trend in the company's surplus as regards policyholders.

4. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the director's approval thereof, and the declaration shall confer no rights upon shareholders until the director has approved the payment of the dividend or distribution, or the director has not disapproved the payment within the thirty-day period referred to above.

Approved July 1, 2004

SB 1080 [HCS SB 1080]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies and creates various laws relating to education accountability.

AN ACT to repeal sections 160.518, 160.538, 160.720, and 174.453, RSMo, and to enact in lieu thereof three new sections relating to education accountability standards.

SECTION

- A. Enacting clause.
- 160.518. Statewide assessment system, standards, restriction — exemplary levels, outstanding school waivers — summary waiver of pupil testing requirements — waiver void, when — scores not counted, when — alternative assessments for special education students — adjustments administered, when — waivers of resources and process standards, when.
- 160.720. Priority schools identified, criteria — comprehensive school improvement plan required, contents — educational audits, requirements — evaluation of plan, timelines — withholding of funds, when — rules.
- 174.453. Board, appointment — certain residency requirements — terms, voting members — term, nonvoting student member — board appointments, Missouri Southern State University-Joplin.
- 160.538. Academically deficient schools — audit teams, findings, report — management teams, investigations, recommendations — members — election for recall of members of district board by order of commissioner of education or petition — suspension of indefinite contracts, hearing — restriction upon renewal of contracts — school accountability council — instructional resource reallocation plan — tuition reimbursement.
- 160.720. Priority schools identified, criteria — comprehensive school improvement plan required, contents — educational audits, requirements — evaluation of plan, timelines — withholding of funds, when — rules.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 160.518, 160.538, 160.720, and 174.453, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 160.518, 160.720, and 174.453, to read as follows:

160.518. STATEWIDE ASSESSMENT SYSTEM, STANDARDS, RESTRICTION — EXEMPLARY LEVELS, OUTSTANDING SCHOOL WAIVERS — SUMMARY WAIVER OF PUPIL TESTING REQUIREMENTS — WAIVER VOID, WHEN — SCORES NOT COUNTED, WHEN — ALTERNATIVE ASSESSMENTS FOR SPECIAL EDUCATION STUDENTS — ADJUSTMENTS ADMINISTERED, WHEN — WAIVERS OF RESOURCES AND PROCESS STANDARDS, WHEN. — 1. Consistent with the provisions contained in section 160.526, the state board of education shall develop a statewide assessment system that provides maximum flexibility for local school districts to determine the degree to which students in the public schools of the state are proficient in the knowledge, skills, and competencies adopted by such board pursuant to subsection 1 of section 160.514. The statewide assessment system shall assess problem solving, analytical ability, evaluation, creativity, and application ability in the different content areas and shall be performance-based to identify what students know, as well as what they are able to do, and shall enable teachers to evaluate

actual academic performance. The assessment system shall neither promote nor prohibit rote memorization and shall not include existing versions of tests approved for use pursuant to the provisions of section 160.257, nor enhanced versions of such tests. The statewide assessment shall measure, where appropriate by grade level, a student's knowledge of academic subjects including, but not limited to, reading skills, writing skills, mathematics skills, world and American history, forms of government, geography and science.

2. The assessment system shall only permit the academic performance of students in each school in the state to be tracked against prior academic performance in the same school.

3. The state board of education shall suggest criteria for a school to demonstrate that its students learn the knowledge, skills and competencies at exemplary levels worthy of imitation by students in other schools in the state and nation. "Exemplary levels" shall be measured by the assessment system developed pursuant to subsection 1 of this section, or until said assessment is available, by indicators approved for such use by the state board of education. The provisions of other law to the contrary notwithstanding, the commissioner of education may, upon request of the school district, present a plan for the waiver of rules and regulations to any such school, to be known as "Outstanding Schools Waivers", consistent with the provisions of subsection 4 of this section.

4. For any school that meets the criteria established by the state board of education for three successive school years pursuant to the provisions of subsection 3 of this section, by August first following the third such school year, the commissioner of education shall present a plan to the superintendent of the school district in which such school is located for the waiver of rules and regulations to promote flexibility in the operations of the school and to enhance and encourage efficiency in the delivery of instructional services. The provisions of other law to the contrary notwithstanding, the plan presented to the superintendent shall provide a summary waiver, with no conditions, for the pupil testing requirements pursuant to section 160.257, in the school. Further, the provisions of other law to the contrary notwithstanding, the plan shall detail a means for the waiver of requirements otherwise imposed on the school related to the authority of the state board of education to classify school districts pursuant to subdivision (9) of section 161.092, RSMo, and such other rules and regulations as determined by the commissioner of education, excepting such waivers shall be confined to the school and not other schools in the district unless such other schools meet the criteria established by the state board of education consistent with subsection 3 of this section and the waivers shall not include the requirements contained in this section and section 160.514. Any waiver provided to any school as outlined in this subsection shall be void on June thirtieth of any school year in which the school fails to meet the criteria established by the state board of education consistent with subsection 3 of this section.

5. The score on any assessment test developed pursuant to this section or this chapter of any student for whom English is a second language shall not be counted until such time as such student has been educated for three full school years in a school in this state, or in any other state, in which English is the primary language.

6. The state board of education shall identify or, if necessary, establish one or more developmentally appropriate alternate assessments for students who receive special educational services, as that term is defined pursuant to section 162.675, RSMo. In the development of such alternate assessments, the state board shall establish an advisory panel consisting of a majority of active special education teachers and other education professionals as appropriate to research available assessment options. The advisory panel shall attempt to identify preexisting developmentally appropriate alternate assessments but shall, if necessary, develop alternate assessments and recommend one or more alternate assessments for adoption by the state board. The state board shall consider the recommendations of the advisory council in establishing such alternate assessment or assessments. Any student who receives special educational services, as that term is defined pursuant to section 162.675, RSMo, shall be assessed by an alternate assessment established pursuant to this subsection upon a determination by the student's individualized education program team that such alternate assessment is more appropriate to

assess the student's knowledge, skills and competencies than the assessment developed pursuant to subsection 1 of this section. The alternate assessment shall evaluate the student's independent living skills, which include how effectively the student addresses common life demands and how well the student meets standards for personal independence expected for someone in the student's age group, sociocultural background, and community setting.

7. Notwithstanding the provisions of subsections 1 to 6 of this section, no later than June 30, 2006, the state board of education shall administer the following adjustments to the statewide assessment system:

(1) Align the performance standards of the statewide assessment system so that such indicators meet, but do not exceed, the performance standards of the National Assessment of Education Progress (NAEP) exam;

(2) Institute yearly examination of students in the required subject areas where compelled by existing federal standards, as of the effective date of this section; and

(3) Administer any other adjustments that the state board of education deems necessary in order to aid the state in satisfying existing federal requirements, as of the effective date of this section, including, but not limited to, the requirements contained in the federal "No Child Left Behind Act". Grade level expectations shall be considered when the state board of education establishes performance standards.

8. By July 1, 2006, the state board of education shall examine its rules and regulations and revise them to permit waivers of resource and process standards based upon achievement of performance profiles consistent with accreditation status.

160.720. PRIORITY SCHOOLS IDENTIFIED, CRITERIA — COMPREHENSIVE SCHOOL IMPROVEMENT PLAN REQUIRED, CONTENTS — EDUCATIONAL AUDITS, REQUIREMENTS — EVALUATION OF PLAN, TIMELINES — WITHHOLDING OF FUNDS, WHEN — RULES. — 1. The department of elementary and secondary education shall identify as a priority school any school building or attendance center that fails to meet acceptable standards of student achievement established by the state board of education and based upon factors which shall include, but not be limited to, student assessments, graduation rate, drop-out rate, school attendance rate, graduate placement in college, vocational or technical school, or high-wage employment and incidence of school violence.

2. The board of education of any district that contains a priority school shall submit a comprehensive school improvement plan that provides for the following:

(1) Identification of the areas of academic deficiency in student performance on the statewide assessment established pursuant to section 160.518 by disaggregating scores based upon school, grade, academic content area and student demographic subgroups, which shall include, but shall not be limited to, race, ethnicity, disability status, migrant status, limited English proficiency, and economic disadvantage;

(2) Implementation of research-based strategies to assist the priority school in addressing the areas of deficiency;

(3) Alignment of the priority school's curriculum to address deficiencies in student achievement;

(4) Reallocation of district resources to address the areas of academic deficiency, which shall include focusing available funding on professional development in the areas of deficiency; and

(5) Listing of all school buildings and attendance centers declared to be priority schools in the district's annual school accountability report distributed pursuant to section 160.522.

3. The state board of education may appoint a team to conduct an educational audit of any priority school to determine the factors that have contributed to the lack of student achievement and shall give audit priority to schools based upon failure to meet standards of student achievement as established pursuant to this section.

(1) An audit team shall include an experienced teacher and an experienced administrator from successful school districts of comparable size and per pupil funding. The size of the audit team shall be based upon the size of the school to be audited;

(2) The audit team shall report its findings to the state board of education and the local board of education;

(3) The state board may require all or part of those findings to be addressed in the comprehensive school improvement plan required pursuant to this section.

4. Comprehensive school improvement plans shall be evaluated based upon standards established pursuant to subsection 2 of this section and upon the following timelines:

(1) The comprehensive school improvement plan shall be submitted to the department of elementary and secondary education on or before August fifteenth following any school year in which a school district building meets the criteria established under subsection 1 of this section;

(2) The department of elementary and secondary education shall review and identify areas of concern in the plan within sixty days of receipt; and

(3) Changes to the plan shall be forwarded to the department of elementary and secondary education within sixty days of notice to the district of the areas of concern.

5. The department of elementary and secondary education shall withhold funds authorized in section 163.031, RSMo, from any school district that fails to submit a comprehensive school improvement plan based upon the standards and timelines established in this section. Withheld funds shall be released upon submission of a comprehensive school improvement plan that meets the established requirements.

6. Designation as a priority school and the effectiveness of the school district in implementing the comprehensive school improvement plan required under this section shall be considered by the state board of education in the school district's accreditation granted pursuant to section 161.092, RSMo.

7. No rule or portion of a rule promulgated under this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

174.453. BOARD, APPOINTMENT — CERTAIN RESIDENCY REQUIREMENTS — TERMS, VOTING MEMBERS — TERM, NONVOTING STUDENT MEMBER — BOARD APPOINTMENTS, MISSOURI SOUTHERN STATE UNIVERSITY-JOPLIN. — 1. The board of governors shall be appointed as follows:

(1) Five voting members shall be selected from the counties comprising the institution's historic statutory service region as described in section 174.010, except that no more than two members shall be appointed from any one county with a population of less than two hundred thousand inhabitants;

(2) Two voting members shall be selected from any of the counties in the state which are outside of the institution's historic service region; and

(3) One nonvoting member who is a student shall be selected in the same manner as prescribed in section 174.055.

2. The term of service of the governors shall be as follows:

(1) The voting members shall be appointed for terms of six years; and

(2) The nonvoting student member shall serve a two-year term.

3. Members of any board of governors selected pursuant to this section and in office on May 13, 1999, shall serve the remainder of their unexpired terms.

4. Notwithstanding the provisions of subsection 1 of this section, the board of governors of Missouri Southern State University-Joplin shall be appointed as follows:

(1) Five voting members shall be selected from any of the following counties: Barton, Jasper, Newton, McDonald, Dade, Lawrence, and Barry provided that no more than three of these five members shall be appointed from any one county;

(2) Two voting members shall be selected from any of the counties in the state which are outside of the counties articulated in subdivision (1) of this subsection;

(3) One nonvoting member who is a student shall be selected in the same manner as prescribed in section 174.055; and

(4) The provisions of subdivisions (1) and (2) of this subsection shall only apply to board members first appointed after August 28, 2004.

[160.538. ACADEMICALLY DEFICIENT SCHOOLS — AUDIT TEAMS, FINDINGS, REPORT — MANAGEMENT TEAMS, INVESTIGATIONS, RECOMMENDATIONS — MEMBERS — ELECTION FOR RECALL OF MEMBERS OF DISTRICT BOARD BY ORDER OF COMMISSIONER OF EDUCATION OR PETITION — SUSPENSION OF INDEFINITE CONTRACTS, HEARING — RESTRICTION UPON RENEWAL OF CONTRACTS — SCHOOL ACCOUNTABILITY COUNCIL — INSTRUCTIONAL RESOURCE REALLOCATION PLAN — TUITION REIMBURSEMENT. — 1. By July 1, 1996, the state board of education shall develop a procedure and criteria for determining that a school in a school district is "academically deficient". In making such a determination for any school, the state board of education shall consider the results for the school from the assessment system developed pursuant to the provisions of section 160.518 together with the results from the education audit performed under subsection 2 of this section.

2. (1) Prior to a decision that a school is academically deficient, the state board of education shall appoint an audit team of at least ten persons to conduct an education audit of the school to determine the factors that have contributed to the lack of student achievement at the school as measured by the district assessment system and make a finding as to whether the school is academically deficient. The specific standards and implementation of the education audit shall be pursuant to rules adopted by the state board of education.

(2) The audit team shall report its findings to the state board. If the audit team finds that the school is academically deficient, then the state board shall declare the school to be academically deficient.

(3) Following a decision that a school is academically deficient, the state board of education shall, within sixty days, appoint a management team of at least ten persons to conduct any necessary investigations and make any recommendations the team believes are appropriate for the administration and management of the school necessary to promote student achievement and any additional resources which are required. Funds shall be provided, upon appropriation, under subsection 2 of section 160.530 for the operation of the audit and management teams and resources needed in the district.

(4) In the appointment of the audit and management teams, the state board of education shall appoint such persons so that at least fifty percent of the team is composed of active classroom teachers at the elementary, middle or secondary level grades. Teachers who have retired within five years of the appointment may be included in the classroom teacher component of the team. Further, no more than two persons of said team may be employees of the department of elementary and secondary education. At least one member of the team shall be a public school superintendent from another district.

(5) The management team shall report its findings and recommendations to the state board within sixty school days. The commissioner of education shall, subject to availability of resources, provide resources to the district as recommended by the management team. The management team report may also include recommendations for one or more of the following:

(a) Conduct a recall election for each member of the district school board;

(b) Suspend indefinite contracts for certificated staff in the school and a one-year maximum length for new or renewal of contracts for the superintendent or the principal of the school;

(c) Require that the district develop a plan for the recruitment and retention of high quality teachers and administrators within the district; or

(d) Appoint a school accountability council to monitor one or more school buildings in the district.

(6) The education audit team shall reevaluate the school two years after the filing of the management team report. No recall election, suspension of indefinite contract or maximum contract length limit may be imposed unless the audit team determines that the school is still academically deficient.

(7) The commissioner of education shall, upon such recommendation by the management team and upon approval by the state board of education, but only in the case where the education audit team finds the school academically deficient in its reevaluation audit under subdivision (6) of this subsection, order an election in the district to be held for the purpose of conducting a recall election of all members of the district school board. The recall election shall be held on the next available election day thereafter as provided under section 115.123, RSMo, and shall be conducted pursuant to chapter 115, RSMo, except as otherwise provided herein.

3. (1) A district school board member of a district which contains a school declared academically deficient may be removed by the voters in a recall election. Such election shall be held upon the submission of a petition signed by voters of the district equal in number to at least twenty-five percent of the number of persons voting at the last preceding election to elect a district board member. The petition shall be filed with the election authority and the secretary of the district board of education, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes and that each signature to the paper appended is the genuine signature of the person whose name it purports to be.

(2) Within ten days from the date of filing such petition the election authority shall examine and ascertain whether said petition is signed by the requisite number of voters; and he shall attach to the petition his certificate, showing the result of the examination. If the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The election authority shall, within ten days after such amendment, make like examination of the amended petition and, if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the election authority shall submit the same to the district board without delay. If the petition shall be found to be sufficient, the district board shall order the question to be submitted to the voters of the district.

(3) If a majority of the voters vote in favor of retaining the member, he shall remain in office and shall not be subject to another recall election during his term of office except as provided in subsection 2 of this section. If a majority of voters vote to remove the member, his successor shall be chosen as provided in section 162.261, RSMo.

4. Under subdivision (5) of subsection 2 of this section, a district board of education may suspend indefinite contracts and issue probationary contracts to all certificated staff in a school declared academically deficient. However, no such indefinite contract for any person may be suspended without providing the person an opportunity for a due process hearing, conducted according to the provisions of chapter 536, RSMo, and only after the school board demonstrates that the performance of the person's duties contributed to the school meeting the criteria for being declared academically deficient. The district board of any school which is declared academically deficient shall not issue new contracts or renew contracts to either the superintendent or the principal of the academically deficient school for a period of longer than one year. The provisions of other law to the contrary notwithstanding, a probationary teacher in a school declared academically deficient shall not be granted an indefinite contract until one year after such school is no longer determined to be academically deficient, and the probationary teacher meets all other requirements for permanent status required by law.

5. (1) If the management team so recommends pursuant to subdivision (5) of subsection 2 of this section, a district board of education may appoint a school accountability council for one or more buildings within the district.

(2) The school accountability council may monitor implementation of an instructional resource reallocation plan within the areas of deficiency identified by the state board of education.

(3) The school accountability council shall consist of seven members, with no fewer than four members being the parent or guardian of a student currently enrolled in the school building.

(4) If the district board of education fails to appoint a school accountability council pursuant to this subsection, then the state board of education may appoint the council.

6. An instructional resource reallocation plan for any school building shall provide for the focusing of any discretionary local, state or federal funds available to the school on the areas of academic deficiency. The instructional resource reallocation plan shall address:

(1) Instruction in math and reading/communication arts if performance by students in those areas under the assessment system developed pursuant to section 160.518 is such that the percentage of the subject school's students scoring at step 1 of the assessment scale is at least twice the percentage of students statewide scoring at step 1 of the assessment scale;

(2) Professional development to improve instruction in the areas of academic deficiency or in areas where the number of certificated staff teaching one or more classes outside of their area of certification results in ten percent or more of the students within the school building being taught by teachers outside their areas of certification;

(3) Special education and related services and the level of integration of children with disabilities within the regular education curriculum where the percentage of students eligible to receive services under the Individuals with Disabilities Education Act and scoring at step 1 of the assessment scale of the assessment system developed pursuant to section 160.518 is at least twice the percentage of students statewide who are eligible to receive services under the Individuals with Disabilities Education Act and who score at step 1 of the assessment scale;

(4) Any waivers required for implementation of the plan to be requested on behalf of the district from the state board of education.

7. The school accountability council shall report annually to the state board of education with regard to the implementation of the instructional resources reallocation plan until such time as the academic deficiencies are addressed.

8. Notwithstanding any other provision of law to the contrary, any district which has one or more buildings declared academically deficient shall provide summer school programming to any student making application in those areas identified as an area of concern by the school audit team pursuant to subsection 2 of this section.

9. (1) Subject to appropriation, the state board of education may establish a program of financial aid for prospective teachers to assist schools identified as academically deficient.

(2) This program may include tuition reimbursement for current teachers and student loan forgiveness for new teachers employed within the district based upon their term of service in the district.

(3) Financial aid shall be provided in those areas of instruction where certificated staff are teaching one or more classes outside of their area of certification.]

[160.720. PRIORITY SCHOOLS IDENTIFIED, CRITERIA — COMPREHENSIVE SCHOOL IMPROVEMENT PLAN REQUIRED, CONTENTS — EDUCATIONAL AUDITS, REQUIREMENTS — EVALUATION OF PLAN, TIMELINES — WITHHOLDING OF FUNDS, WHEN — RULES. — 1. The department of elementary and secondary education shall identify for recognition by the governor schools demonstrating high student achievement to be designated as performance schools. In addition, the department of elementary and secondary education shall identify those waivers of administrative rule authorized under state law appropriate for the recognized school district or school. The department of elementary and secondary education shall endeavor to identify waivers of administrative rule that result in a meaningful reduction in administrative burden on the districts recognized in this section.

2. The department of elementary and secondary education shall identify priority school districts and priority schools based upon the following criteria:

(1) School attendance centers declared academically deficient by the state board of education as authorized by section 160.538;

(2) School districts declared unaccredited or provisionally accredited by the state board of education pursuant to section 161.092, RSMo; or

(3) School districts or school attendance centers that do not meet any of the accreditation standards on student performance established by the state board of education based upon the statewide assessment system authorized pursuant to section 160.518.

3. The board of education of any priority school district or priority school shall submit, as a part of a comprehensive school improvement plan, an accountability compliance statement that shall:

(1) Identify and analyze areas of deficiency in student performance by school, grade and academic content area;

(2) Provide a comprehensive strategy for addressing these areas of deficiency;

(3) Assure disclosure of these areas of deficiency in the school accountability report card required pursuant to section 160.522;

(4) Permit a metropolitan district that is implementing a program of academic improvement in a school or schools identified pursuant to a settlement agreement for a desegregation lawsuit to submit the elements of the accountability compliance statement required in subdivisions (1) to (3) of this subsection for review for possible waiver solely in regard to the schools identified for academic improvement pursuant to the settlement agreement; provided, however, that the department of elementary and secondary education shall meet with any district covered by the provisions of this subdivision prior to the district submitting any element of an accountability compliance statement, so that the department may identify elements of the settlement agreement academic improvement plan that are substantially similar to the requirements contained in this section, and the department shall advise such district if, based on its review, any further plan or reporting of such plans or elements is required; and

(5) Require school boards of each district to annually review the school discipline provisions contained in section 160.261, and sections 167.023, 167.026, 167.117, 167.161 to 167.171 and 167.335, RSMo, and ensure that the district's discipline policies are consistent with the above listed sections.

4. The comprehensive strategy for addressing areas of deficiency required pursuant to this section shall address the following areas:

(1) Align curriculum to address areas of deficiency in student achievement;

(2) Develop, for any student who is not receiving special education services under an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, who is performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518, an individual performance plan in that subject area which shall:

(a) Be developed by the teacher or teachers in consultation with the child's parent, guardian, or other adult responsible for the student's education;

(b) Outline responsibilities for the student, parent, guardian, or other adult responsible for the student's education, teachers, and administrators in implementing the plan. Such plans shall not require the level of documentation and procedural complexities of an individualized education plan pursuant to sections 162.670 to 162.699, RSMo, but shall contain sufficient detail for all parties to understand their responsibilities in the implementation of the student's performance plan;

(c) State that the student's parent, guardian, or other adult responsible for the student's education shall act in good faith to implement the student performance plan and make reasonable efforts to meet with the teacher when requested or required by the plan; and

(d) Require those students performing at a level not determined or at the lowest level of proficiency in any subject area under the statewide assessment established pursuant to section 160.518 to be provided with additional instruction time and for students in grade nine to eleven to retake the assessment;

(3) Focus state and local professional development funds on the areas of greatest academic need, including a statement relating to accessing the resources and services of the regional professional development center and support from state professional development funds;

(4) Create programs to improve teacher and administrator effectiveness;

(5) Establish school accountability councils consistent with the procedures stated in subsection 5 of section 160.538 or align any existing parent advisory council with the requirements of subsection 5 of section 160.538;

(6) Develop a resource reallocation plan for the district; and

(7) Consider the need to implement strategies pursuant to this subsection for feeder schools of any priority school.

5. The school district shall include in any program for improvement of teacher and administrator effectiveness in an accountability compliance statement policies that will:

(1) Require school administrators and teachers, including teachers who are provisionally or temporarily certified, to participate in one of the following programs of professional development:

(a) A mentoring program meeting standards established by the state board of education or supervised by an individual previously designated by the department of elementary and secondary education as a regional resource teacher;

(b) Successful completion of a training program for certification as a scorer under the statewide assessment program authorized pursuant to section 160.518; or

(c) Enrollment and making adequate progress towards national board certification;

(2) Provide one additional year of intensive professional development assistance to teachers and administrators who do not complete or make adequate progress in the professional development activities described in subdivision (1) of this subsection;

(3) Exempt from the professional development requirements accountability compliance statement as provided in subdivision (1) of this subsection any individual who:

(a) Holds qualifying scores in the appropriate professional assessment as determined by the state board of education or who elects to take and receive a qualifying score of that assessment;

(b) Holds national board certification;

(c) Is certified as a scorer under the statewide assessment program;

(d) Is designated by the department of elementary and secondary education as a regional resource teacher;

(e) Serves as a mentor teacher for one school year in a program meeting standards adopted by the state board of education; or

(f) Successfully completes an appropriate administrator academy program offered pursuant to section 168.407, RSMo.

6. Any resource reallocation plan shall include at least one of the following elements:

(1) Reduce class size in areas of academic concern;

(2) Establish full-day kindergarten or preschool programs;

(3) Establish after-school, tutoring and other programs offering extended time for learning;

(4) Employ regional resource teachers designated by the department of elementary and secondary education or national board-certified teachers, along with appropriate salary enhancements for such teachers;

(5) Establish programs of teacher home visitation to encourage parental support of student learning; and

(6) Create "school within a school" programs to achieve smaller learning communities within priority schools.

7. The state board of education shall establish by administrative rule standards to evaluate accountability compliance statements, based upon the following criteria:

(1) An accountability compliance statement shall be submitted to the department of elementary and secondary education on or before August fifteenth following any school year in which a school district meets the criteria established under subsection 2 of this section;

(2) The department of elementary and secondary education shall review and identify areas of deficiency in the plan within thirty days of receipt; and

(3) Changes to the plan shall be forwarded to the department of elementary and secondary education within thirty days of notice to the district of the areas of deficiency.

8. The department of elementary and secondary education shall withhold funds to be paid to the school district, as authorized in section 163.031, RSMo, until such time as the district submits an accountability compliance statement meeting the standards authorized pursuant to this section within the time lines established herein.

9. The department of elementary and secondary education shall develop within three years of the adoption of this section a program of administrator mentoring focusing on the need of priority schools and priority school districts and meeting standards established by the state board of education.

10. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

11. In any school year in which the school funding formula has a proration factor on line 1(b) of less than 0.9, the provisions of subsections 2 to 9 of this section relating to priority schools and priority school districts shall not be enforced. For any school year in which funding of the school aid formula at the level stated in this subsection appears to be in doubt after all appropriations bills are truly agreed and finally passed, the house budget chair and the senate appropriations chair shall send a joint letter to the commissioner of education by August fifteenth, notifying the department of elementary and secondary education of the likelihood that funding would be below the limit stated in this subsection and requesting that the department not enforce subsections 2 to 9 of this section unless and until the department's calculations for the first "live" school aid payment of the school year show that the formula will have a proration factor on line 1(b) of no less than 0.9.]

Approved June 25, 2004

SB 1083 [SB 1083]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the age limitation for the testing for lead poisoning in children.

AN ACT to repeal section 701.342, RSMo, and to enact in lieu thereof one new section relating to testing for lead poisoning in children.

SECTION

A. Enacting clause.

701.342. High risk areas identified — assessment and testing requirements — laboratory reporting — additional testing required, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 701.342, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 701.342, to read as follows:

701.342. HIGH RISK AREAS IDENTIFIED — ASSESSMENT AND TESTING REQUIREMENTS — LABORATORY REPORTING — ADDITIONAL TESTING REQUIRED, WHEN. — 1. The department of health and senior services shall, using factors established by the department, including but not limited to the geographic index from data from testing reports, identify geographic areas in the state that are at high risk for lead poisoning. All children [six months of age through] **less than** six years of age who reside or spend more than ten hours a week in an area identified as high risk by the department shall be tested annually for lead poisoning.

2. Every child [six months through] **less than** six years of age not residing or spending more than ten hours a week in geographic areas identified as high risk by the department shall be assessed annually using a questionnaire to determine whether such child is at high risk for lead poisoning. The department, in collaboration with the department of social services, shall develop the questionnaire, which shall follow the recommendations of the federal Centers for Disease Control and Prevention. The department may modify the questionnaire to broaden the scope of the high-risk category. Local boards or commissions of health may add questions to the questionnaire.

3. Every child deemed to be at high risk for lead poisoning according to the questionnaire developed pursuant to subsection 2 of this section shall be tested using a blood sample.

4. Any child deemed to be at high risk for lead poisoning pursuant to this section who resides in housing currently undergoing renovations may be tested at least once every six months during the renovation and once after the completion of the renovation.

5. Any laboratory providing test results for lead poisoning pursuant to sections 701.340 to 701.349 shall notify the department of the test results of any child tested for lead poisoning as required in section 701.326. Any child who tests positive for lead poisoning shall receive follow-up testing in accordance with rules established by the department. The department shall, by rule, establish the methods and intervals of follow-up testing and treatment for such children.

6. When the department is notified of a case of lead poisoning, the department shall require the testing of all other children less than six years of age, and any other children or persons at risk, as determined by the director, who are residing or have recently resided in the household of the lead-poisoned child.

Approved June 22, 2004

SB 1086 [SB 1086]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Restricts lenders from requiring borrowers to obtain homeowners insurance exceeding the property's replacement value.

AN ACT to repeal section 375.937, RSMo, and to enact in lieu thereof one new section relating to homeowner insurance requirements by lenders.

SECTION

A. Enacting clause.

375.937. Lenders, duties — prohibited acts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 375.937, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 375.937, to read as follows:

375.937. LENDERS, DUTIES — PROHIBITED ACTS. — 1. No person may require as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person to whom such money or credit is extended or whose obligation a creditor is to acquire or finance, negotiate any contract of insurance or renewal thereof through a particular insurer or group of insurers or agent, broker or group of agents or brokers.

2. No person who lends money or extends credit may:

(1) Unreasonably reject a contract of insurance furnished by the borrower for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for rejection of an insurance contract because the contract contains coverage in addition to that required in the credit transaction;

(2) Require that any borrower, mortgagor, purchaser, insurer, broker or agent pay a separate charge, in connection with the handling of any contract of insurance required as security for a loan on real estate, or pay a separate charge to substitute the insurance policy of one insurer for that of another. This subdivision does not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit documents;

(3) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a contract of insurance which is required by the credit transaction, for the purpose of replacing such insurance;

(4) Require any procedures or conditions of duly licensed agents, brokers or insurers not customarily required of those agents, brokers or insurers affiliated or in any way connected with the person who lends money or extends credit;

(5) Solicit insurance for the protection of real property, after a person indicates interest in securing a first mortgage credit extension, until such person has received a commitment in writing from the lender as to a loan or credit extension;

(6) As a condition of financing a residential mortgage or providing other financial arrangements for residential property, require a borrower to purchase homeowners' insurance coverage in an amount exceeding the replacement value of the improvements and contents on the real property. A violation of this subdivision shall not affect the validity of the loan, note secured by a deed of trust, mortgage, or deed of trust.

3. Every person who lends money or extends credit and who solicits insurance on real and personal property subject to subsection 2 of this section must explain to the borrower in writing that the insurance related to such credit extension may be purchased from an insurer or agent of the borrower's choice, subject only to the lender's right to reject a given insurer or agent as provided in subdivision (1) of subsection 2 of this section. Compliance with disclosures as to insurance required by truth-in-lending laws or comparable state laws shall be in compliance with this subsection. This requirement for a commitment shall not apply in cases where the premium for the required insurance is to be financed as part of the loan or extension of credit involving personal property transactions. The commitment shall contain the rate or rate formula, amount and terms of the loan, subject to the creditworthiness of the borrower, valuation of the property and the insurability to value of the property.

4. The director shall have the power to examine and investigate those insurance-related activities of any person which may be in violation of this section. Any affected person may submit to the director a complaint or material pertinent to the enforcement of this section.

5. Nothing in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the mortgagor, borrower or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

6. Nothing contained in this section shall apply to credit life or credit accident and health insurance.

Approved June 25, 2004

SB 1091 [HCS SCS SB 1091]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to community college facility maintenance.

AN ACT to repeal section 163.191, RSMo, and to enact in lieu thereof one new section relating to community colleges.

SECTION

A. Enacting clause.

163.191. State aid to community colleges — distribution to be based on resource allocation model, adjustment annually, factors involved — report on effectiveness of model, due when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 163.191, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 163.191, to read as follows:

163.191. STATE AID TO COMMUNITY COLLEGES — DISTRIBUTION TO BE BASED ON RESOURCE ALLOCATION MODEL, ADJUSTMENT ANNUALLY, FACTORS INVOLVED — REPORT ON EFFECTIVENESS OF MODEL, DUE WHEN. — 1. Each year public community colleges in the aggregate shall be eligible to receive from state funds, if state funds are available and appropriated, an amount up to but not more than fifty percent of the state community colleges' planned operating costs as determined by the department of higher education. As used in this subsection, the term "year" means from July first to June thirtieth of the following year. As used in this subsection, the term "operating costs" means all costs attributable to current operations, including all direct costs of instruction, instructors' and counselors' compensation, administrative costs, all normal operating costs and all similar noncapital expenditures during any year, excluding costs of construction of facilities and the purchase of equipment, furniture, and other capital items authorized and funded in accordance with subsection 2 of this section. Operating costs shall be computed in accordance with accounting methods and procedures to be specified by the department of higher education. The department of higher education shall review all institutional budget requests and prepare appropriation recommendations annually for the community colleges under the supervision of the department. The department's budget request shall include a recommended level of funding. Distribution of appropriated funds to community college districts shall be in accordance with the community college resource allocation model. This model shall be developed and revised as appropriate cooperatively by the community colleges and the department of higher education. The department of higher education shall recommend the model to the coordinating board for higher education for their approval. The core funding level for each community college shall initially be established at an amount agreed upon by the community colleges and the department of higher education. This amount will be adjusted annually for inflation, limited growth, and program improvements in accordance with the resource allocation model starting with fiscal year 1993. The department of higher education shall request new and separate state aid funds for any new districts for their first six years of

operation. The request for the new districts shall be based upon the same level of funding being provided to the existing districts, and should be sufficient to provide for the growth required to reach a mature enrollment level. The department of higher education will be responsible for evaluating the effectiveness of the resource allocation model and will submit a report to the speaker of the house of representatives and president pro tem of the senate by November 1997, and every four years thereafter.

2. In addition to state funds received for operating purposes, each community college district shall be eligible to receive an annual appropriation, **exclusive of any capital appropriations**, for the cost of maintenance and repair of facilities and grounds, including surface parking areas, and purchases of equipment and furniture. Such funds shall not exceed in any year an amount equal to ten percent of the state appropriations, **exclusive of any capital appropriations**, to community college districts for operating purposes during the most recently completed fiscal year. The department of higher education may include in its annual appropriations request the necessary funds to implement the provisions of this subsection and when appropriated shall distribute the funds to each community college district as appropriated. The department of higher education appropriations request shall be for specific maintenance, repair, and equipment projects at specific community college districts, shall be in an amount of fifty percent of the cost of a given project as determined by the coordinating board and shall be only for projects which have been approved by the coordinating board through a process of application, evaluation, and approval as established by the coordinating board. The coordinating board, as part of its process of application, evaluation, and approval, shall require the community college district to provide proof that the fifty-percent share of funding to be defrayed by the district is either on hand or committed for maintenance, repair, and equipment projects. Only salaries or portions of salaries paid which are directly related to approved projects may be used as a part of the fifty-percent share of funding.

3. School districts offering two-year college courses pursuant to section 178.370, RSMo, on October 31, 1961, shall receive state aid pursuant to subsections 1 and 2 of this section if all scholastic standards established pursuant to sections 178.770 to 178.890, RSMo, are met.

4. In order to make postsecondary educational opportunities available to Missouri residents who do not reside in an existing community college district, community colleges organized pursuant to section 178.370, RSMo, or sections 178.770 to 178.890, RSMo, shall be authorized pursuant to the funding provisions of this section to offer courses and programs outside the community college district with prior approval by the coordinating board for higher education. The classes conducted outside the district shall be self-sustaining except that the coordinating board shall promulgate rules to reimburse selected out-of-district instruction only where prior need has been established in geographical areas designated by the coordinating board for higher education. Funding for such off-campus instruction shall be included in the appropriation recommendations, shall be determined by the general assembly and shall continue, within the amounts appropriated therefor, unless the general assembly disapproves the action by concurrent resolution.

5. A "community college" is an institution of higher education deriving financial resources from local, state, and federal sources, and providing postsecondary education primarily for persons above the twelfth grade age level, including courses in:

- (1) Liberal arts and sciences, including general education;
- (2) Occupational, vocational-technical; and
- (3) A variety of educational community services.

Community college course offerings lead to the granting of certificates, diplomas, and/or associate degrees, but do not include baccalaureate or higher degrees.

6. When distributing state aid authorized for community colleges, the state treasurer may, in any year if requested by a community college, disregard the provision in section 30.180, RSMo, requiring the state treasurer to convert the warrant requesting payment into a check or

draft and wire transfer the amount to be distributed to the community college directly to the community college's designated deposit for credit to the community college's account.

Approved June 25, 2004

SB 1093 [HCS SCS SB 1093]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows treasurers of certain public entities to invest public funds.

AN ACT to amend chapters 67, 362, 369, and 370, RSMo, by adding thereto four new sections relating to investment of public funds.

SECTION

- A. Enacting clause.
- 67.085. Investment of certain public funds, conditions.
- 362.112. Bank or trust company may act as custodian, when.
- 369.161. Savings and loan association or savings bank may act as custodian, when.
- 370.400. Credit union may act as custodian, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapters 67, 362, 369, and 370, RSMo, are amended by adding thereto four new sections, to be known as sections 67.085, 362.112, 369.161, and 370.400, to read as follows:

67.085. INVESTMENT OF CERTAIN PUBLIC FUNDS, CONDITIONS. — Notwithstanding any law to the contrary, any political subdivision of the state, and any other public entity in Missouri may invest funds of the public entity not immediately needed for the purpose to which such funds or any of them may be applicable provided each public entity meets the requirements for separate deposit insurance of public funds permitted by federal deposit insurance and in accordance with the following conditions:

(1) The public funds are invested through a financial institution which has been selected as a depository of the funds in accordance with the applicable provisions of the statutes of Missouri relating to the selection of depositories and such financial institutions enters into a written agreement with the public entity;

(2) The selected financial institution arranges for the deposit of the public funds in certificates of deposit in one or more financial institutions wherever located in the United States, for the account of the public entity;

(3) Each such certificate of deposit issued by financial institutions as provided in subdivision (2) of this section is insured by federal deposit insurance for one hundred percent of the principal and accrued interest of the certificate of deposit;

(4) The selected financial institution acts as custodian for the public entity with respect to the certificate of deposit issued for its account; and

(5) At the same time that the public funds are deposited and the certificates of deposit are issued, the selected financial institution receives an amount of deposits from customers of other financial institutions equal to the amount of the public funds initially invested by the public entity through the selected financial institution.

362.112. BANK OR TRUST COMPANY MAY ACT AS CUSTODIAN, WHEN. — In addition to any other banking authority, a bank or trust company may act as a custodian for any entity, public or private, and place funds in any other financial institutions, provided such funds are placed in deposits and insured by the Federal Deposit Insurance Corporation.

369.161. SAVINGS AND LOAN ASSOCIATION OR SAVINGS BANK MAY ACT AS CUSTODIAN, WHEN. — In addition to any other banking authority, a savings and loan association or savings bank may act as a custodian for any entity, public or private, and place funds in any other financial institutions, provided such funds are placed in deposits and insured by the Federal Deposit Insurance Corporation.

370.400. CREDIT UNION MAY ACT AS CUSTODIAN, WHEN. — In addition to any other credit union authority, a credit union may act as a custodian for any entity, public or private, and place funds in any other financial institutions, provided such funds are placed in deposits and insured by federal deposit insurance.

Approved June 25, 2004

SB 1096 [SCS SB 1096]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires manufactured home installers to obtain a license from the Public Service Commission.

AN ACT to amend chapter 700, RSMo, by adding thereto fifteen new sections relating to regulating the installation of manufactured homes, with penalty provisions.

SECTION

- A. Enacting clause.
- 700.650. Citation — definitions.
- 700.653. Program to assure proper installation of manufactured homes required.
- 700.656. Installers to be licensed by the commission — no local license required — certain entities to employ licensed installers — license not required, when.
- 700.659. License issued by commission, when, applicant requirements — additional requirements — term of license, renewal.
- 700.662. Reciprocity of license requirements.
- 700.665. Limited-use installer license authorized.
- 700.668. Renewal notice — notification of insurance coverage — license inactive, when — reissue of license authorized.
- 700.671. Prohibitions — violation, penalty.
- 700.674. Prohibitions.
- 700.677. Discipline authorized — methods of discipline — complaint may be considered, effect — notice.
- 700.680. Complaints to be investigated — subpoenas authorized — petition in court authorized, when.
- 700.683. Installers to follow standards — standards to be adopted by commission — commission decals.
- 700.686. Inspection standards.
- 700.689. Dispute process required.
- 700.692. Administration — fees authorized — rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 700, RSMo, is amended by adding thereto fifteen new sections, to be known as sections 700.650, 700.653, 700.656, 700.659, 700.662,

700.665, 700.668, 700.671, 700.674, 700.677, 700.680, 700.683, 700.686, 700.689, and 700.692, to read as follows:

700.650. CITATION — DEFINITIONS. — 1. Sections 700.650 to 700.692 shall be known and may be cited as the "Manufactured Home Installation Act".

2. For the purposes of sections 700.650 to 700.692, the following terms shall mean:

(1) "Applicant", a person who applies to the commission for a license or limited use license to install manufactured homes;

(2) "Commission", the Missouri public service commission;

(3) "Dealer", any person, other than a manufacturer, who sells or offers for sale four or more manufactured homes in any consecutive twelve-month period;

(4) "Installation", work undertaken at the place of occupancy to ensure the proper initial setup of a manufactured home which shall include the joining of all sections of the home, installation of stabilization, support, and leveling systems, assembly of multiple or expanded units, and installation of applicable utility hookups and anchoring systems that render the home fit for habitation;

(5) "Installation standards", reasonable specifications for the installation of a manufactured home;

(6) "Installer", an individual who is licensed by the commission to install manufactured homes, pursuant to sections 700.650 to 700.680 of this act;

(7) "Manufactured home", a manufactured home as that term is defined in subdivision (5) of section 700.010;

(8) "Manufacturer", any person who manufactures manufactured homes, including persons who engage in importing manufactured homes for resale; and

(9) "Person", an individual, partnership, corporation, or other legal entity.

700.653. PROGRAM TO ASSURE PROPER INSTALLATION OF MANUFACTURED HOMES REQUIRED. — The commission shall implement a program, consistent with Title VI of P.L. 106-569 and any federal regulations promulgated pursuant to that act, to assure the proper installation of manufactured homes by licensed installers. The program shall include the following components:

(1) Licensing of installers, including penalties for engaging in the business of manufactured home installation without a license from the commission;

(2) Installation standards applicable to manufactured homes;

(3) Inspection of a percentage of installed manufactured homes; and

(4) A process to resolve disputes relating to the installation of manufactured homes.

700.656. INSTALLERS TO BE LICENSED BY THE COMMISSION — NO LOCAL LICENSE REQUIRED — CERTAIN ENTITIES TO EMPLOY LICENSED INSTALLERS — LICENSE NOT REQUIRED, WHEN. — 1. No person shall engage in the business of installing manufactured homes or hold himself or herself out as a manufactured home installer in this state unless such person holds a valid installer license issued by the commission pursuant to sections 700.650 to 700.680.

2. The installer license obtained from the commission shall be the only installer license required for installing manufactured homes within this state. No political subdivision of this state may issue an installer license or require additional professional licensure of installers already licensed by the commission.

3. Manufactured home dealers and manufactured home manufacturers who do not subcontract with a licensed installer and who perform installations themselves or through direct agents or employees shall have at least one agent or employee who is a licensed installer.

4. Any corporation, partnership, or other legal entity that performs installation shall have at least one supervising agent who is a licensed installer.

5. A license to install manufactured homes is not required for a person who installs a manufactured home on his or her property for his or her own occupancy or who is a direct agent of a licensee, working under the licensee's supervision and within the licensee's job scope. The licensed installer is responsible for supervising all such agents for their competent and proper performance.

700.659. LICENSE ISSUED BY COMMISSION, WHEN, APPLICANT REQUIREMENTS — ADDITIONAL REQUIREMENTS — TERM OF LICENSE, RENEWAL. — 1. The commission shall issue an installer license to an applicant who:

(1) Files a written application with the commission on a form approved by the commission;

(2) Is at least eighteen years old;

(3) Is of good moral character;

(4) Presents evidence that he or she has completed a training program approved by the commission;

(5) Has attained a passing grade upon an examination, approved by the commission, that is designed to test the skills necessary to properly perform as an installer and to ascertain the adequacy of the applicant's knowledge of federal and state laws applicable to manufactured home installation. The commission may establish what constitutes a passing grade for the examination; and

(6) Pays all fees as required by sections 700.650 to 700.680 and by commission rule.

2. In addition to fulfilling the requirements of subsection 1 of this section, an applicant who is not an agent of a dealer or manufacturer shall obtain and show proof of a certificate of insurance for workers' compensation coverage.

3. In addition to fulfilling the requirements of subsection 1 of this section, an applicant who is an agent of a dealer or manufacturer shall show proof of general liability insurance in an amount of at least three hundred thousand dollars.

4. An installer license shall be valid for a period of time determined by the commission, but not for less than one year, and it may be renewed accordingly.

700.662. RECIPROCITY OF LICENSE REQUIREMENTS. — 1. The commission may waive the training and examination requirements of subsection 1 of section 700.659 and grant an installer license to an applicant who pays the applicable fee and demonstrates to the commission's satisfaction that his or her current license, registration, or certification requirements as an installer in another state, the District of Columbia, or territories of the United States substantially meets or exceeds the requirements in sections 700.650 to 700.680.

2. The commission may negotiate reciprocal agreements that allow licensed installers in Missouri to become licensed in other states, the District of Columbia, or territories of the United States.

700.665. LIMITED-USE INSTALLER LICENSE AUTHORIZED. — Upon payment of an applicable fee, the commission may issue a limited use installer license to an applicant not otherwise licensed pursuant to sections 700.650 to 700.680 who already has installation experience but who has not met the training and examination requirements for licensure. The limited use installer license shall allow the person to install manufactured homes under the supervision of a person currently licensed pursuant to sections 700.650 to 700.680. The limited use license shall expire when the commission issues an installer license to the applicant or if the applicant fails to attain a passing grade on the examination. The commission may renew an applicant's limited use license one time.

700.668. RENEWAL NOTICE — NOTIFICATION OF INSURANCE COVERAGE — LICENSE INACTIVE, WHEN — REISSUE OF LICENSE AUTHORIZED. — 1. The commission shall mail a

renewal notice to the last known address of each installer licensee prior to the renewal date and shall establish procedures and requirements, including proof of continuing education, for renewing an installer license. The commission shall renew the license of a licensee who fulfills these requirements before the expiration date of his or her license and within a time period determined by the commission. The commission shall deny renewal to a licensee who does not fulfill these requirements.

2. Within ten days of receiving notification, a licensee shall notify the commission in writing of the cancellation, termination, or nonrenewal of any workers' compensation coverage or general liability insurance required by section 700.659. The commission may suspend an installer license until the licensee provides proof that the insurance coverage is restored.

3. Upon a licensee's written request, the commission may grant inactive status to a licensee, if the person meets the licensing requirements in sections 700.650 to 700.680 and:

(1) Does not install manufactured homes, except as allowed pursuant to section 700.659;

(2) Does not hold himself or herself out as an installer in the state of Missouri; and

(3) Maintains continuing education requirements established by the commission.

4. The commission may establish procedures and requirements for reissuing an installer license that has lapsed, expired, or been suspended, revoked, or placed on inactive status. The commission shall not reissue a license more than two years after its expiration date.

700.671. PROHIBITIONS — VIOLATION, PENALTY. — 1. No person shall:

(1) Falsely hold himself, herself, or a business organization out as a licensed installer;

(2) Falsely impersonate a licensed installer;

(3) Present as his or her own the installer's license of another;

(4) Knowingly give false or forged evidence to the commission;

(5) Use or attempt to use an installer license that has been suspended or revoked; or

(6) Engage in the business or act in the capacity of a licensed installer or advertise himself, herself, or a business organization as available to engage in the business or act in the capacity of an installer without being duly licensed by the commission.

2. Any person who violates any provision of this section is guilty of a class A misdemeanor.

700.674. PROHIBITIONS. — No person licensed as an installer and no applicant shall:

(1) Obtain an installer license by fraud or misrepresentation;

(2) Be convicted of or found guilty of, or enter a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction that directly relates to the business of performing or the ability to perform manufactured home installation;

(3) Violate any order of the commission;

(4) Commit misconduct, fraud, misrepresentation, or dishonesty in installing manufactured homes;

(5) Commit gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property; or

(6) Commit violations of installation standards adopted by the commission pursuant to section 700.683.

700.677. DISCIPLINE AUTHORIZED — METHODS OF DISCIPLINE — COMPLAINT MAY BE CONSIDERED, EFFECT — NOTICE. — 1. Notwithstanding any provision of law to the contrary, the commission may discipline a holder of an installer license, a holder of a limited use installer license, or any other person for any violation or combination of violations of sections 700.671 and 700.674.

2. The commission may discipline a licensee or applicant who violates any provision of section 700.674 by:

- (1) Revoking a license;
- (2) Suspending a license;
- (3) Requiring the person to take and pass, or retake and pass, an examination approved by the commission;
- (4) Placing the person on probation;
- (5) Sending the person a notice of noncompliance; or
- (6) Refusing to issue a license.

3. The commission may consider a complaint filed with it charging a licensed installer with a violation of the provisions of sections 700.650 to 700.680. If proven, the charges shall constitute grounds for revoking or suspending the installer license or for placing the licensed installer on probation.

4. If it refuses to issue or renew an installer license or limited use installer license, the commission shall notify the person, in writing, of:

- (1) The reasons for refusal;
- (2) The option to resolve the matter through the commission's alternative dispute resolution process;
- (3) The opportunity to file a formal complaint with the commission if the person does not choose alternative dispute resolution or if that process fails to resolve the matter; and
- (4) The right to review by the circuit court, pursuant to section 386.510, RSMo.

700.680. COMPLAINTS TO BE INVESTIGATED — SUBPOENAS AUTHORIZED — PETITION IN COURT AUTHORIZED, WHEN. — 1. The commission shall investigate all complaints concerning violations of sections 700.650 to 700.680 to determine if there are grounds for disciplining a holder of an installer license or limited use installer license or for refusing to issue either form of license to an applicant.

2. The commission may issue subpoenas duces tecum in order to cause any installer licensee, holder of a limited use installer license, or other person to produce records or appear as a witness in connection with an investigation or proceeding pursuant to this section.

3. In lieu of or in addition to any remedy provided in this section, the commission may file a petition in the name of the state asking a court to issue a restraining order or a writ of mandamus against any person who is or who had been violating any of the provisions of sections 700.650 to 700.680 or any rule, order, or subpoena issued by the commission.

700.683. INSTALLERS TO FOLLOW STANDARDS — STANDARDS TO BE ADOPTED BY COMMISSION — COMMISSION DECALS. — 1. The commission shall require installers to install homes in accordance with the installation instructions provided by the manufacturer of the manufactured home. The instructions shall have been approved by the United States Department of Housing and Urban Development or one of its authorized agents pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

2. The commission shall adopt uniform, reasonable standards for the proper installation of manufactured homes in this state including, but not limited to, standards for the foundation, supports, anchoring, underpinning, and joining of the sections of the home. The standards shall provide for physical engineering needed to appropriately install a manufactured home on a specific site.

3. Each licensed installer shall purchase installation decals from the commission for a fee established by the commission. An installation decal shall be affixed to the manufactured home upon completion of the installation. The decal shall note the

installer's license number and shall be permanently affixed to the manufactured home at a location determined by the commission.

700.686. INSPECTION STANDARDS. — The commission shall conduct inspections of new manufactured home installations performed by licensed installers consistent with standards adopted pursuant to section 700.683 and with requirements established by the United States Department of Housing and Urban Development.

700.689. DISPUTE PROCESS REQUIRED. — The commission shall implement a process, by rule, consistent with Title VI of PL 106-569 and any federal regulations promulgated pursuant to that act, to resolve disputes arising among manufacturers, dealers, and installers of manufactured homes regarding responsibility for correcting or repairing defects in manufactured homes that are reported during the one-year period beginning on the date of installation. The program shall provide for issuing appropriate orders.

700.692. ADMINISTRATION — FEES AUTHORIZED — RULEMAKING AUTHORITY. — 1. The commission may implement sections 700.650 to 700.692 using its own employees, using independent contractors, consistent with policies established by the office of administration, or through other private or public entities that provide a service to an applicant or licensee at the expense of the applicant, licensee, or his or her employer.

2. The commission may establish reasonable fees to cover the cost of implementing sections 700.650 to 700.692. The commission shall collect the fees and transmit them to the department of revenue for deposit in the state treasury to the credit of the "Manufactured Housing Fund" created pursuant to section 700.040.

3. The commission may promulgate any rules necessary and convenient to carry out the purposes of sections 700.650 to 700.692. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

Approved June 7, 2004

SB 1099 [CCS HS HCS SS SCS SB 1099]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Implements the Tax Credit Accountability Act.

AN ACT to repeal sections 21.810, 32.057, 135.215, 173.196, 173.796, 620.014, 620.017, and 620.1300, RSMo, and to enact in lieu thereof sixteen new sections relating to tax credits, with penalty provisions.

SECTION

A. Enacting clause.

21.810. Joint committee on tax policy established, members, appointment, duties.

- 32.057. Confidentiality of tax returns and department records — exceptions — penalty for violation.
- 135.215. Real property improvements exemption from assessment and ad valorem taxes — procedure — maximum period granted — abatement or exemption ceases, when.
- 135.800. Citation — definitions.
- 135.802. Information required to be submitted with tax credit applications — certain information required for specific tax credits — rulemaking authority — requirements to apply to certain recipients, when — duties of agencies.
- 135.805. Certain information to be submitted annually, who, time period — due date of reporting requirements — requirements to apply to certain recipients, when — applicant in compliance, when, written notification, when, records available for review — effective date.
- 135.810. Failure to report, penalties — notice required, when, taxpayer liable for penalties, when — change of address notification required — rulemaking authority.
- 135.815. Verification of applicant's tax payment status, when, effect of delinquency.
- 135.825. Tracking system for tax credits required — exception — rulemaking authority.
- 135.830. Tax credit accountability act of 2004 to be in addition to existing tax laws.
- 173.196. Business firm may make donation to higher education scholarship donation fund, tax credit — amount of credit, limitations, carry-over — use of fund — tax credits prohibited, when.
- 173.796. Tax credit for donations to fund — tax credits prohibited, when.
- 610.255. Tax credit records and documents deemed closed records, when — request for opening records and documents, requirements, fee authorized.
- 620.014. Records on financial investments, sales or business plans to be deemed closed records, when.
- 620.017. Grants, loans or other financial assistance or services programs, funds to be used solely for required purpose, certain information required — failure to comply, funds must be repaid to department, contract law governs — annual report required, elements.
- 620.1300. Cost benefit analysis on certain programs, selection of analyzing firm, distribution of analysis — subjects analyzed.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 21.810, 32.057, 135.215, 173.196, 173.796, 620.014, 620.017, and 620.1300, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 21.810, 32.057, 135.215, 135.800, 135.802, 135.805, 135.810, 135.815, 135.825, 135.830, 173.196, 173.796, 610.255, 620.014, 620.017, and 620.1300, to read as follows:

21.810. JOINT COMMITTEE ON TAX POLICY ESTABLISHED, MEMBERS, APPOINTMENT, DUTIES. — 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Tax Policy" which shall be composed of five members of the senate, appointed by the president pro tem of the senate, and five members of the house of representatives, appointed by the speaker of the house of representatives. A majority of the members of the committee shall constitute a quorum. The members shall annually select one of the members to be the chair and one of the members to be the vice chair. The speaker of the house of representatives and the president pro tem of the senate shall appoint the respective majority members. The minority leader of the house and the minority leader of the senate shall appoint the respective minority members. The members shall receive no additional compensation, but shall be reimbursed for actual and necessary expenses incurred by them in the performance of their duties. No major party shall be represented on the committee by more than three members from the senate nor by more than three members from the house. The committee is authorized to meet and act year round and to employ the necessary personnel within the limits of appropriations. The staff of the committee on legislative research, house research, and senate research shall provide necessary clerical, research, fiscal, and legal services to the committee, as the committee may request.

2. It shall be the duty of the committee:

(1) To make a continuing study and analysis of the current and proposed tax policy of this state as it relates to:

- (a) Fairness and equity;
- (b) True economic impact;
- (c) Burden on individuals and businesses;

- (d) Effectiveness of tax expenditures;
- (e) Impact on political subdivisions of this state;
- (f) Agreements and contracts with the federal government, other states and territories, political subdivisions, and private entities relating to the collection and administration of state and local taxes and fees;
- (g) Compliance with the state and United States Constitution and federal and international law; and

- (h) The effects of interstate commerce;

(2) To make a continuing study and review of the department of revenue, the department of economic development, the state tax commission, and any other state agency, commission, or state executive office responsible for the administration of tax policies;

(3) To study the effects of the coupling or decoupling with the federal income tax code as it relates to the state income tax;

(4) To make recommendations, as and when the committee deems fit, to the general assembly for legislative action or to report findings and to the departments, commissions, and offices for administrative or procedural changes; [and]

(5) To study the effects of a sales tax holiday; and

(6) To examine and assess the public benefit of any tax credit program that is the subject of an audit by the state auditor pursuant to section 620.1300, RSMo, and provide a report to the general assembly and the governor with the committee's findings and recommendations, if any, regarding such tax credit program within six months of receiving the audit report.

3. All state departments, commissions, and offices responsible for the administration of tax policies shall cooperate with and assist the committee in the performance of its duties and shall make available all books, records and information requested, except individually identifiable information regarding a specific taxpayer. The committee may also consult with public and private universities and academies, public and private organizations, and private citizens in the performance of its duties. The committee may contract with public and private entities, within the limits of appropriation, for analysis and study of current or proposed changes to state and local tax policy. The committee shall have the power to subpoena witnesses, take testimony under oath, compel the attendance of witnesses, the giving of testimony and the production of records.

32.057. CONFIDENTIALITY OF TAX RETURNS AND DEPARTMENT RECORDS — EXCEPTIONS — PENALTY FOR VIOLATION. — 1. Except as otherwise specifically provided by law, it shall be unlawful for the director of revenue, any officer, employee, agent or deputy or former director, officer, employee, agent or deputy of the department of revenue, any person engaged or retained by the department of revenue on an independent contract basis, any person to whom authorized or unauthorized disclosure is made by the department of revenue, or any person who lawfully or unlawfully inspects any report or return filed with the department of revenue or to whom a copy, an abstract or a portion of any report or return is furnished by the department of revenue to make known in any manner, to permit the inspection or use of or to divulge to anyone any information relative to any such report or return, any information obtained by an investigation conducted by the department in the discharge of official duty, or any information received by the director in cooperation with the United States or other states in the enforcement of the revenue laws of this state. Such confidential information is limited to information received by the department in connection with the administration of the tax laws of this state.

2. Nothing in this section shall be construed to prohibit:

(1) The disclosure of information, returns, reports, or facts shown thereby, as described in subsection 1 of this section, by any officer, clerk or other employee of the department of revenue charged with the custody of such information:

(a) To a taxpayer or the taxpayer's duly authorized representative under regulations which the director of revenue may prescribe;

(b) In any action or proceeding, civil, criminal or mixed, brought to enforce the revenue laws of this state;

(c) To the state auditor or the auditor's duly authorized employees as required by subsection 4 of this section;

(d) To any city officer designated by ordinance of a city within this state to collect a city earnings tax, upon written request of such officer, which request states that the request is made for the purpose of determining or enforcing compliance with such city earnings tax ordinance and provided that such information disclosed shall be limited to that sufficient to identify the taxpayer, and further provided that in no event shall any information be disclosed that will result in the department of revenue being denied such information by the United States or any other state. The city officer requesting the identity of taxpayers filing state returns but not paying city earnings tax shall furnish to the director of revenue a list of taxpayers paying such earnings tax, and the director shall compare the list submitted with the director's records and return to such city official the name and address of any taxpayer who is a resident of such city who has filed a state tax return but who does not appear on the list furnished by such city. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information;

(e) To any employee of any county or other political subdivision imposing a sales tax which is administered by the state department of revenue whose office is authorized by the governing body of the county or other political subdivision to receive any and all records of the state director of revenue pertaining to the administration, collection and enforcement of its sales tax. The request for sales tax records and reports shall include a description of the type of report requested, the media form including electronic transfer, computer tape or disk, or printed form, and the frequency desired. The request shall be made by annual written application and shall be filed with the director of revenue. The director of revenue may set a fee to reimburse the department for the costs reasonably incurred in providing this information. Such city or county or any employee thereof shall be subject to the same standards for confidentiality as required for the department of revenue in using the information contained in the reports;

(f) To the director of the department of economic development or the director's duly authorized employees in discharging the director's official duties to certify taxpayers eligibility to claim state tax credits as prescribed by statutes;

(g) To any employee of any political subdivision, such records of the director of revenue pertaining to the administration, collection and enforcement of the tax imposed in chapter 149, RSMo, as are necessary for ensuring compliance with any cigarette or tobacco tax imposed by such political subdivision. The request for such records shall be made in writing to the director of revenue, and shall include a description of the type of information requested and the desired frequency. The director of revenue may charge a fee to reimburse the department for costs reasonably incurred in providing such information;

(2) The publication by the director of revenue or of the state auditor in the audit reports relating to the department of revenue of:

(a) Statistics, statements or explanations so classified as to prevent the identification of any taxpayer or of any particular reports or returns and the items thereof;

(b) The names and addresses without any additional information of persons who filed returns and of persons whose tax refund checks have been returned undelivered by the United States Post Office;

(3) The director of revenue from permitting the Secretary of the Treasury of the United States or the Secretary's delegates, the proper officer of any state of the United States imposing a tax equivalent to any of the taxes administered by the department of revenue of the state of Missouri or the appropriate representative of the multistate tax commission to inspect any return or report required by the respective tax provision of this state, or may furnish to such officer an

abstract of the return or report or supply the officer with information contained in the return or disclosed by the report of any authorized investigation. Such permission, however, shall be granted on condition that the corresponding revenue statute of the United States or of such other state, as the case may be, grants substantially similar privileges to the director of revenue and on further condition that such corresponding statute gives confidential status to the material with which it is concerned;

(4) The disclosure of information, returns, reports, or facts shown thereby, by any person on behalf of the director of revenue, in any action or proceeding to which the director is a party or on behalf of any party to any action or proceeding pursuant to the revenue laws of this state when such information is directly involved in the action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of such information as is pertinent to the action or proceeding and no more;

(5) The disclosure of information, returns, reports, or facts shown thereby, by any person to a state or federal prosecuting official, **including, but not limited to, the state and federal attorneys general, or** the official's designees[, or other persons officially] involved in any criminal [or], quasi-criminal, **or civil** investigation, action or proceeding pursuant to the laws of this state or of the United States when such information is pertinent to an investigation, action or proceeding involving the administration of the revenue laws or duties of public office or employment connected therewith;

(6) Any school district from obtaining the aggregate amount of the financial institution tax paid pursuant to chapter 148, RSMo, by financial institutions located partially or exclusively within the school district's boundaries, provided that the school district request such disclosure in writing to the department of revenue;

(7) The disclosure of records which identify all companies licensed by this state pursuant to the provisions of subsections 1 and 2 of section 149.035, RSMo. The director of revenue may charge a fee to reimburse the department for the costs reasonably incurred in providing such records;

(8) The disclosure to the commissioner of administration pursuant to section 34.040, RSMo, of a list of vendors and their affiliates who meet the conditions of section 144.635, RSMo, but refuse to collect the use tax levied pursuant to chapter 144, RSMo, on their sales delivered to this state.

3. Any person violating any provision of subsection 1 or 2 of this section shall, upon conviction, be guilty of a class D felony.

4. The state auditor or the auditor's duly authorized employees who have taken the oath of confidentiality required by section 29.070, RSMo, shall have the right to inspect any report or return filed with the department of revenue if such inspection is related to and for the purpose of auditing the department of revenue; except that, the state auditor or the auditor's duly authorized employees shall have no greater right of access to, use and publication of information, audit and related activities with respect to income tax information obtained by the department of revenue pursuant to chapter 143, RSMo, or federal statute than specifically exists pursuant to the laws of the United States and of the income tax laws of the state of Missouri.

135.215. REAL PROPERTY IMPROVEMENTS EXEMPTION FROM ASSESSMENT AND AD VALOREM TAXES — PROCEDURE — MAXIMUM PERIOD GRANTED — ABATEMENT OR EXEMPTION CEASES, WHEN. — 1. Improvements made to "real property" as such term is defined in section 137.010, RSMo, which are made in an enterprise zone subsequent to the date such zone or expansion thereto was designated, may upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions, provided that, except as to the exemption allowed under subsection 3 of this section, at least fifty new jobs that provide an average of at least thirty-five hours of employment per week per job are created and maintained at the new or expanded

facility. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions or stipulations otherwise required. A copy of the resolution shall be provided the director within thirty calendar days following adoption of the resolution by the governing authority.

2. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date and purpose of the hearing.

3. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enterprise zone shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for assembling, fabricating, processing, manufacturing, mining, warehousing or distributing properties.

4. No exemption shall be granted for a period more than twenty-five years following the date on which the original enterprise zone was designated by the department.

5. The provisions of subsection 1 of this section shall not apply to improvements made to real property which have been started prior to August 28, 1991.

6. The mandatory abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section 99.855, RSMo, and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of section 99.845, RSMo, unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of section 99.820, RSMo.

7. Effective August 28, 2004, any abatement or exemption provided for in this section on an individual parcel of real property shall cease after a period of thirty days of business closure, work stoppage, major reduction in force, or a significant change in the type of business conducted at that location. For the purposes of this subsection, "work stoppage" shall not include strike or lockout or time necessary to retool a plant, and "major reduction in force" is defined as a seventy-five percent or greater reduction. Any owner or new owner may reapply, but cannot receive the abatement or exemption for any period of time beyond the original life of the enterprise zone.

135.800. CITATION — DEFINITIONS. — 1. The provisions of sections 135.800 to 135.830 shall be known and may be cited as the "Tax Credit Accountability Act of 2004".

2. As used in sections 135.800 to 135.830, the following terms mean:

(1) "Administering agency", the state agency or department charged with administering a particular tax credit program, as set forth by the program's enacting statute; where no department or agency is set forth, the department of revenue;

(2) "Agricultural tax credits", the agricultural product utilization contributor tax credit created pursuant to section 348.430, RSMo, the new generation cooperative incentive tax credit created pursuant to section 348.432, RSMo, and the wine and grape production tax credit created pursuant to section 135.700;

(3) "All tax credit programs", the tax credit programs included in the definitions of agricultural tax credits, business recruitment tax credits, community development tax credits, domestic and social tax credits, entrepreneurial tax credits, environmental tax

credits, housing tax credits, redevelopment tax credits, and training and educational tax credits;

(4) "Business recruitment tax credits", the business facility tax credit created pursuant to sections 135.110 to 135.150 and section 135.258, the enterprise zone tax benefits created pursuant to sections 135.200 to 135.270, the business use incentives for large-scale development programs created pursuant to sections 100.700 to 100.850, RSMo, the development tax credits created pursuant to sections 32.100 to 32.125, RSMo, the rebuilding communities tax credit created pursuant to section 135.535, and the film production tax credit created pursuant to section 135.750;

(5) "Community development tax credits", the neighborhood assistance tax credit created pursuant to sections 32.100 to 32.125, RSMo, the family development account tax credit created pursuant to sections 208.750 to 208.775, RSMo, the dry fire hydrant tax credit created pursuant to section 320.093, RSMo, and the transportation development tax credit created pursuant to section 135.545;

(6) "Domestic and social tax credits", the youth opportunities tax credit created pursuant to section 135.460 and sections 620.1100 to 620.1103, RSMo, the shelter for victims of domestic violence created pursuant to section 135.550, the senior citizen or disabled person property tax credit created pursuant to sections 135.010 to 135.035, the special needs adoption tax credit created pursuant to sections 135.325 to 135.339, the maternity home tax credit created pursuant to section 135.600, and the shared care tax credit created pursuant to section 660.055, RSMo;

(7) "Entrepreneurial tax credits", the capital tax credit created pursuant to sections 135.400 to 135.429, the certified capital company tax credit created pursuant to sections 135.500 to 135.529, the seed capital tax credit created pursuant to sections 348.300 to 348.318, RSMo, the new enterprise creation tax credit created pursuant to sections 620.635 to 620.653, RSMo, the research tax credit created pursuant to section 620.1039, RSMo, the small business incubator tax credit created pursuant to section 620.495, RSMo, the guarantee fee tax credit created pursuant to section 135.766, and the new generation cooperative tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(8) "Environmental tax credits", the charcoal producer tax credit created pursuant to section 135.313, the wood energy tax credit created pursuant to sections 135.300 to 135.311, and the manufacturing and recycling flexible cellulose casing tax credit created pursuant to section 260.285, RSMo;

(9) "Housing tax credits", the neighborhood preservation tax credit created pursuant to sections 135.475 to 135.487, the low income housing tax credit created pursuant to sections 135.350 to 135.363, and the affordable housing tax credit created pursuant to sections 32.105 to 32.125, RSMo;

(10) "Recipient", the individual or entity who is the original applicant for and who receives proceeds from a tax credit program directly from the administering agency, the person or entity responsible for the reporting requirements established in section 135.805;

(11) "Redevelopment tax credits", the historic preservation tax credit created pursuant to sections 253.545 to 253.561, RSMo, the brownfield redevelopment program tax credit created pursuant to sections 447.700 to 447.718, RSMo, the community development corporations tax credit created pursuant to sections 135.400 to 135.430, the infrastructure tax credit created pursuant to subsection 6 of section 100.286, RSMo, the bond guarantee tax credit created pursuant to section 100.297, RSMo, and the disabled access tax credit created pursuant to section 135.490;

(12) "Training and educational tax credits", the community college new jobs tax credit created pursuant to sections 178.892 to 178.896, RSMo, the skills development account tax credit created pursuant to sections 620.1400 to 620.1460, RSMo, the mature worker tax credit created pursuant to section 620.1560, RSMo, the sponsorship and mentoring tax credit created pursuant to section 135.348.

135.802. INFORMATION REQUIRED TO BE SUBMITTED WITH TAX CREDIT APPLICATIONS — CERTAIN INFORMATION REQUIRED FOR SPECIFIC TAX CREDITS — RULEMAKING AUTHORITY — REQUIREMENTS TO APPLY TO CERTAIN RECIPIENTS, WHEN — DUTIES OF AGENCIES. — 1. Beginning January 1, 2005, all applications for all tax credit programs shall include, in addition to any requirements provided by the enacting statutes of a particular credit program, the following information to be submitted to the department administering the tax credit:

(1) Name, address, and phone number of the applicant or applicants, and the name, address, and phone number of a contact person or agent for the applicant or applicants;

(2) Taxpayer type, whether individual, corporation, nonprofit or other, and taxpayer identification number, if applicable;

(3) Standard industry code, if applicable; and

(4) Program name and type of tax credit, including the identity of any other state or federal program being utilized for the same activity or project.

2. In addition to the information required by subsection 1 of this section, an applicant for a community development tax credit shall also provide information detailing the title and location of the corresponding project, the estimated time period for completion of the project, and all geographic areas impacted by the project.

3. In addition to the information required by subsection 1 of this section, an applicant for a redevelopment tax credit shall also provide information detailing the location and legal description of the property, age of the structure, if applicable, whether the property is residential, commercial, or governmental, and the projected project cost, labor cost, and projected date of completion. Where a redevelopment tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection.

4. In addition to the information required by subsection 1 of this section, an applicant for a business recruitment tax credit shall also provide information detailing the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the application, the number of employees projected to increase as a result of the completion of the project, and the estimated project cost.

5. In addition to the information required by subsection 1 of this section, an applicant for a training and educational tax credit shall also provide information detailing the name and address of the educational institution to be used, the average salary of workers to be served, the estimated project cost, and the number of employees and number of students to be served.

6. In addition to the information required by subsection 1 of this section, an applicant for a housing tax credit also shall provide information detailing the address, legal description, and fair market value of the property, and the projected labor cost and projected completion date of the project. Where a housing tax credit applicant is required to submit contemporaneously a federal application for a similar credit on the same underlying project, the submission of a copy of the federal application shall be sufficient to meet the requirements of this subsection. For the purposes of this subsection, "fair market value" means the value as of the purchase of the property or the most recent assessment, whichever is more recent.

7. In addition to the information required by subsection 1 of this section, an applicant for an entrepreneurial tax credit shall also provide information detailing the amount of investment and the names of the project, fund, and research project.

8. In addition to the information required by subsection 1 of this section, an applicant for an agricultural tax credit shall also provide information detailing the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of facility.

9. In addition to the information required by subsection 1 of this section, an applicant for an environmental tax credit shall also include information detailing the type of equipment, if applicable, purchased and any environmental impact statement, if required by state or federal law.

10. An administering agency may, by rule, require additional information to be submitted by an applicant. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created pursuant to the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be void.

11. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the application requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

12. It shall be the duty of each administering agency to provide information to every applicant, at some time prior to authorization of an applicant's tax credit application, wherein the requirements of this section, the annual reporting requirements of section 135.805, and the penalty provisions of section 135.810 are described in detail.

135.805. CERTAIN INFORMATION TO BE SUBMITTED ANNUALLY, WHO, TIME PERIOD — DUE DATE OF REPORTING REQUIREMENTS — REQUIREMENTS TO APPLY TO CERTAIN RECIPIENTS, WHEN — APPLICANT IN COMPLIANCE, WHEN, WRITTEN NOTIFICATION, WHEN, RECORDS AVAILABLE FOR REVIEW — EFFECTIVE DATE. — 1. A recipient of a community development tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the title and location of the corresponding project, the estimated or actual time period for completion of the project, and all geographic areas impacted by the project.

2. A recipient of a redevelopment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming whether the property is used for residential, commercial, or governmental purposes, and the projected or actual project cost, labor cost, and date of completion.

3. A recipient of a business recruitment tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the category of business by size, the address of the business headquarters and all offices located within this state, the number of employees at the time of the annual update, an updated estimate of the number of employees projected to increase as a result of the completion of the project, and the estimated or actual project cost.

4. A recipient of a training and educational tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the name and address of the educational institution used, the average salary of workers served as of such annual update, the estimated or actual project cost, and the number of employees and number of students served as of such annual update.

5. A recipient of a housing tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the address of the property, the fair market value of the property, as defined in subsection 6 of section 135.802, and the projected or actual labor cost and completion date of the project.

6. A recipient of an entrepreneurial tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the amount of investment and the names of the project, fund, and research project.

7. A recipient of an agricultural tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity then the new generation processing entity, and not the recipient, shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information confirming the type of agricultural commodity, the amount of contribution, the type of equipment purchased, and the name and description of facility.

8. A recipient of an environmental tax credit shall annually, for a period of three years following issuance of tax credits, provide to the administering agency information detailing any change to the type of equipment purchased, if applicable, and any change to any environmental impact statement, if such statement is required by state or federal law.

9. The reporting requirements established in this section shall be due annually on June thirtieth of each year. No person or entity shall be required to make an annual report until at least one year after the credit issuance date.

10. Where the sole requirement for receiving a tax credit in the enabling legislation of any tax credit is an obligatory assessment upon a taxpayer or a monetary contribution to a particular group or entity, the reporting requirements provided in this section shall apply to the recipient of such assessment or contribution and shall not apply to the assessed nor the contributor.

11. Where the enacting statutes of a particular tax credit program or the rules of a particular administering agency require reporting of information that includes the information required in sections 135.802 to 135.810, upon reporting of the required information, the applicant shall be deemed to be in compliance with the requirements of sections 135.802 to 135.810. The administering agency shall notify in writing the department of economic development of the administering agency's status as custodian of any particular tax credit program and that all records pertaining to the program are available at the administering agency's office for review by the department of economic development.

12. The provisions of subsections 1 to 10 of this section shall apply beginning on June 30, 2005.

135.810. FAILURE TO REPORT, PENALTIES — NOTICE REQUIRED, WHEN, TAXPAYER LIABLE FOR PENALTIES, WHEN — CHANGE OF ADDRESS NOTIFICATION REQUIRED — RULEMAKING AUTHORITY. — 1. After credits have been issued, any failure to meet the annual reporting requirements established in section 135.805 or any determination of fraud in the application process shall result in penalties as follows:

(1) Failure to report for more than six months but less than one year shall result in a penalty equal to two percent of the value of the credits issued for each month of delinquency during such time period;

(2) Failure to report for more than one year shall result in a penalty equal to ten percent of the value of the credits issued for each month of delinquency during such time period up to one hundred percent of the value of the credit issued is assessed by way of penalty;

(3) Fraud in the application process shall result in a penalty equal to one hundred percent of the credits issued. No taxpayer shall be deemed to have committed fraud in the

application process for any credit unless such conclusion has been reached by a court of competent jurisdiction or the administrative hearing commission.

2. Ninety days after the annual report is past due, the administering agency shall send notice by registered mail to the last known address of the person or entity obligated to complete the annual reporting informing such person or entity of the past-due annual report and describing in detail the pending penalties and their respective deadlines. Six months after the annual report is past due, the administering agency shall notify the department of revenue of any taxpayer subject to penalties. The taxpayer shall be liable for any penalties as of December thirty-first of any tax year and such liability shall be due as of the filing date of the taxpayer's next income tax return. If the taxpayer is not required to file an income tax return, the taxpayer's liability for penalties shall be due as of April fifteenth of each year. The director of the department of revenue shall prepare forms and promulgate rules to allow for the reporting and satisfaction of liability for such penalties. The director of the department of revenue shall offset any credits claimed on a contemporaneously filed tax return against an outstanding penalty before applying such credits to the tax year against which they were originally claimed. Any nonpayment of liability for penalties shall be subject to the same provisions of law as a liability for unpaid income taxes, including, but not limited to, interest and penalty provisions.

3. Penalties shall remain the liability of the person or entity obligated to complete the annual reporting, without regard to any transfer of the credits.

4. Any person or entity obligated to complete the annual reporting requirements provided in section 135.805 shall provide the proper administering agency with notice of change of address when necessary.

5. An administering agency may promulgate rules in order to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

135.815. VERIFICATION OF APPLICANT'S TAX PAYMENT STATUS, WHEN, EFFECT OF DELINQUENCY. — Prior to authorization of any tax credit application, an administering agency shall verify through the department of revenue that the tax credit applicant does not owe any delinquent income, sales, or use taxes, or interest or penalties on such taxes, and through the department of insurance that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not affect the authorization of the application for such tax credits, except that the amount of credits issued shall be reduced by the applicant's tax delinquency. If the department of revenue or the department of insurance concludes that a taxpayer is delinquent after June fifteenth but before July first of any year, and the application of tax credits to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all available credits towards a tax delinquency, the administering agency shall notify the appropriate department, and that department shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions of other provisions of law.

135.825. TRACKING SYSTEM FOR TAX CREDITS REQUIRED — EXCEPTION — RULEMAKING AUTHORITY. — 1. The administering agencies for all tax credit programs

shall, in cooperation with the department of revenue, implement a system for tracking the amount of tax credits authorized, issued, and redeemed. Any such agency may promulgate rules for the implementation of this section.

2. The provisions of this section shall not apply to any credit that is issued and redeemed simultaneously.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

135.830. TAX CREDIT ACCOUNTABILITY ACT OF 2004 TO BE IN ADDITION TO EXISTING TAX LAWS. — The provisions of sections 135.800 to 135.830 shall be construed, wherever necessary, to be in addition to existing requirements, duties, or obligations present in other provisions of law, with regard to all tax credit programs.

173.196. BUSINESS FIRM MAY MAKE DONATION TO HIGHER EDUCATION SCHOLARSHIP DONATION FUND, TAX CREDIT — AMOUNT OF CREDIT, LIMITATIONS, CARRY-OVER — USE OF FUND — TAX CREDITS PROHIBITED, WHEN. — 1. Any business firm, as defined in section 32.105, RSMo, may make a donation to the "Missouri Higher Education Scholarship Donation Fund", which is hereby created in the state treasury. A donating business firm shall receive a tax credit as provided in this section equal to fifty percent of the amount of the donation, except that tax credits shall be awarded each fiscal year in the order donations are received and the amount of tax credits authorized shall total no more than two hundred and fifty thousand dollars for each fiscal year.

2. The department of revenue shall grant tax credits approved under this section which shall be applied in the order specified in subsection 1 of section 32.115, RSMo, until used. The tax credits provided under this section shall be refundable, and any tax credit not used in the fiscal year in which approved may be carried over the next five succeeding calendar or fiscal years until the full credit has been claimed.

3. No tax credit authorized under this section may be applied against any tax applied in a tax year beginning prior to January 1, 1995.

4. All revenues credited to the fund shall be used, subject to appropriations, to provide scholarships authorized under sections 173.197 to 173.199, and for no other purpose.

5. For all tax years beginning on or after January 1, 2005, no tax credits shall be authorized, awarded, or issued to any person or entity claiming any tax credit under this section.

173.796. TAX CREDIT FOR DONATIONS TO FUND — TAX CREDITS PROHIBITED, WHEN. — 1. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441 or 143.471, RSMo.

2. Any taxpayer may make a contribution to the fund. Within the limits specified in subsection 3 of this section, a taxpayer shall be allowed a credit against the taxes imposed pursuant to chapter 143, RSMo, except for sections 143.191 to 143.265, RSMo, on that individual or entity of up to fifty percent of the total amount contributed to the fund, not to exceed one hundred thousand dollars per taxpayer.

3. The department of revenue shall administer the tax credits pursuant to this section, and shall certify eligibility for the tax credits in the order applications are received. The total amount of tax credits certified in any one calendar year shall not exceed five million dollars annually.

Contributions of up to one hundred thousand dollars per annum per taxpayer may be certified by the department of revenue as a qualified contribution for purposes of receiving a tax credit under this program.

4. If the amount of tax credit exceeds the total tax liability for the year in which the tax credit is claimed, the amount that exceeds the state tax liability may be carried forward for credit against the taxes imposed pursuant to chapter 143, RSMo, except for sections 143.191 to 143.265, RSMo, for the succeeding ten years, or until the full credit is used, whichever occurs first.

5. **For all tax years beginning on or after January 1, 2005, no tax credits shall be authorized, awarded, or issued to any person or entity claiming any tax credit under this section.**

6. The provisions of this section shall become effective January 1, 1999.

610.255. TAX CREDIT RECORDS AND DOCUMENTS DEEMED CLOSED RECORDS, WHEN — REQUEST FOR OPENING RECORDS AND DOCUMENTS, REQUIREMENTS, FEE AUTHORIZED.

— **1. Records and documents relating to tax credits submitted as part of the application for all tax credits to any department of this state, board, or commission authorized to issue or authorize or recommend the authorization of tax credits shall be deemed closed records until such time as the information submitted does not concern a pending application, and except as limited by other provision of law concerning closed records. For the purposes of this subsection, a "pending application" shall mean any application for credits that has not yet been authorized. In the case of partial authorization of credits, the completed authorization of a single credit shall be sufficient to constitute full authorization to the extent that the authorized credit or credits relate to the same application as the credits that have not yet been authorized.**

2. Upon a request for opening of records and documents relating to all tax credit programs, as defined in section 135.800, RSMo, submitted in accordance with the provisions of this chapter, except as limited by the provision of subsection 1 of this section, the agency that is the recipient of the open records request shall make information available consistent with the provisions of this chapter. Where a single record or document contains both open and closed records, the agency shall make a redacted version of such record or document available in order to protect the information that would otherwise make the record or document a closed record. Staff time required for such redaction shall constitute an activity for which a fee can be collected pursuant to section 610.026.

3. As used in this section "closed record" shall mean closed record as defined in section 610.010.

620.014. RECORDS ON FINANCIAL INVESTMENTS, SALES OR BUSINESS PLANS TO BE DEEMED CLOSED RECORDS, WHEN. — Records and documents submitted to the department of economic development, to the Missouri economic development, export and infrastructure board, or to a regional planning commission formed pursuant to chapter 251, RSMo, relating to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business[, or records and documents submitted to the department of economic development, or to a regional planning commission formed pursuant to chapter 251, RSMo, relating to tax credits except for the amount and recipient of any tax credits that are awarded] may be deemed a "closed record" as such term is defined in section 610.010, RSMo.

620.017. GRANTS, LOANS OR OTHER FINANCIAL ASSISTANCE OR SERVICES PROGRAMS, FUNDS TO BE USED SOLELY FOR REQUIRED PURPOSE, CERTAIN INFORMATION REQUIRED — FAILURE TO COMPLY, FUNDS MUST BE REPAYED TO DEPARTMENT, CONTRACT LAW GOVERNS — ANNUAL REPORT REQUIRED, ELEMENTS. — **1.** The department of economic development

shall require that any contract or agreement with any party which provides grants, loans, **tax credits**, other financial assistance or services, to which a monetary value can be assigned, to such party through a program administered by the department of economic development shall:

(1) Specify that such party shall use the proceeds of any such grant, loan, other financial assistance or the benefits of any services solely as required by that program through which the loan, grant, financial assistance or service is provided;

(2) **Describe the economic incentive, including the amount and type of economic incentive;**

(3) **State why the economic incentive is needed;**

(4) **State the public purpose or purposes for the economic incentive;**

(5) **State the goals for the economic incentive and the time periods by which these goals will be met;**

(6) **Describe the financial obligation of the party if the requirements of the contract or agreement are not met;**

(7) **State the name and address of the parent corporation of the recipient, if any; and**

(8) **State all other financial assistance known by the department that was received by the recipient for the same project.**

2. In addition, such a contract or agreement shall require that any recipient which uses the proceeds or services for any other purpose or fails to comply with any requirement established by the program through which the loan, grant, **tax credit**, financial assistance or service is provided shall return any remaining proceeds to the department and shall also require that any proceeds expended or the value of any **incentives or services to which a monetary value can be assigned** received by the party shall be repaid to the department as required by the contract.

3. **The contracts or agreements required by this section shall be governed by and enforceable through the applicable provisions of contract law.**

4. **The department of economic development shall prepare an annual report regarding all economic incentives administered in the previous calendar year and submit such report to the governor, the president pro tem of the senate, and the speaker of the house of representatives by July first of each year. The annual report shall be made available to the public and shall include, but not be limited to, the following elements:**

(1) **The total amount of economic incentives awarded by industry;**

(2) **The distribution of economic incentives by type and public purpose;**

(3) **The distribution of economic incentives by the size of all business recipients; and**

(4) **A reporting of any legal action taken by the department or the state with any parties which have failed to comply with a contract or agreement pursuant to this section.**

620.1300. COST BENEFIT ANALYSIS ON CERTAIN PROGRAMS, SELECTION OF ANALYZING FIRM, DISTRIBUTION OF ANALYSIS — SUBJECTS ANALYZED. — A cost benefit analysis shall be prepared to evaluate the effectiveness of **all tax credit programs, as defined by section 135.800, RSMo, and** all programs operated by the department of economic development for which the department approves tax credits, loans, loan guarantees, or grants. Each analysis shall be conducted by the state auditor, and shall include, but not be limited to, the costs for each program, the direct state and indirect state benefits and the direct local and indirect local benefits associated with each program, the safeguards to protect noneconomic influences in the award of programs administered by the department, and the likelihood of the economic activity taking place without the program. The result of each analysis shall be published and distributed, by January 1, 2001, and **at least** every [two] **four** years thereafter, to the governor, the speaker of the house of representatives, the president pro tem of the senate, the chairman of the house budget committee, the chairman of the senate appropriations committee, **the joint committee on tax policy**, and the joint committee on economic development policy and planning.

SB 1100 [SCS SB 1100]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies requirements for publishing of administrative rules.

AN ACT to repeal sections 536.015, 536.021, 536.023, and 536.031, RSMo, and to enact in lieu thereof four new sections relating to the publication of administrative rules.

SECTION

- A. Enacting clause.
- 536.015. Missouri Register published at least monthly.
- 536.021. Rules, procedure for making, amending or rescinding — notice of — rules effective when, exception — effective date to be printed in code of state regulations — failure of agencies to promulgate a required rule — effect — exception — letter ruling authorized for department of revenue, effect.
- 536.023. Procedures for numbering, indexing and publishing to be prescribed by secretary of state.
- 536.031. Code to be published — to be revised monthly — incorporation by reference authorized, courts to take judicial notice — incorporation by reference of certain rules, how.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 536.015, 536.021, 536.023, and 536.031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 536.015, 536.021, 536.023, and 536.031, to read as follows:

536.015. MISSOURI REGISTER PUBLISHED AT LEAST MONTHLY. — There is established a publication to be known as the "Missouri Register", which shall be published **in a format and medium as prescribed by the secretary of state and in writing upon request** no less frequently than monthly by the secretary of state.

536.021. RULES, PROCEDURE FOR MAKING, AMENDING OR RESCINDING — NOTICE OF — RULES EFFECTIVE WHEN, EXCEPTION — EFFECTIVE DATE TO BE PRINTED IN CODE OF STATE REGULATIONS — FAILURE OF AGENCIES TO PROMULGATE A REQUIRED RULE — EFFECT — EXCEPTION — LETTER RULING AUTHORIZED FOR DEPARTMENT OF REVENUE, EFFECT. — 1. No rule shall hereafter be proposed, adopted, amended or rescinded by any state agency unless such agency shall first file with the secretary of state a notice of proposed rulemaking and a subsequent final order of rulemaking, both of which shall be published in the Missouri Register by the secretary of state as soon as practicable after the filing thereof in that office; except that a notice of proposed rulemaking is not required for the establishment of hunting or fishing seasons and limits or for the establishment of state program plans required under federal education acts or regulations. The secretary of state shall not publish any proposed rulemaking or final order of rulemaking that has not fully complied with the provisions of section 536.024 or an executive order, whichever appropriately applies. If the joint committee on administrative rules disapproves any proposed order of rulemaking, final order of rulemaking or portion thereof, the committee shall report its finding to the house of representatives and the senate. No proposed order of rulemaking, final order of rulemaking or portion thereof shall take effect, or be published by the secretary of state, so long as the general assembly shall disapprove such by concurrent resolution pursuant to article IV, section 8 within thirty legislative days occurring during the same regular session of the general assembly. The secretary of state shall not publish any order, or portion thereof, that is the subject of a concurrent resolution until the expiration of time necessary to comply with the provisions of article III, section 32.

2. A notice of proposed rulemaking shall contain:

(1) An explanation of any proposed rule or any change in an existing rule, and the reasons therefor;

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- (2) The legal authority upon which the proposed rule is based;
 - (3) The text of the entire proposed rule or the entire text of any affected section or subsection of an existing rule which is proposed to be amended, with all new matter [underlined or] printed in boldface type and with all deleted matter placed in brackets, except that when a proposed rule consists of material so extensive that the publication thereof would be unduly cumbersome or expensive, the secretary of state need publish only a summary and description of the substance of the proposed rule so long as a complete copy of the rule is made immediately available to any interested person upon application to the adopting state agency at a cost not to exceed the actual cost of reproduction. A proposed rule may incorporate by reference only if the material so incorporated is retained at the headquarters of the state agency and made available to any interested person at a cost not to exceed the actual cost of the reproduction of a copy. When a proposed amendment to an existing rule is to correct a typographical or printing error, or merely to make a technical change not affecting substantive matters, the amendment may be described in general terms without reprinting the entire existing rule, section or subsection;
 - (4) The number and general subject matter of any existing rule proposed to be rescinded;
 - (5) Notice that anyone may file a statement in support of or in opposition to the proposed rulemaking at a specified place and within a specified time not less than thirty days after publication of the notice of proposed rulemaking in the Missouri Register; and
 - (6) Notice of the time and place of a hearing on the proposed rulemaking if a hearing is ordered, which hearing shall be not less than thirty days after publication of the notice of proposed rulemaking in the Missouri Register; or a statement that no hearing has been ordered if such is the case.
3. Any state agency issuing a notice of proposed rulemaking may order a hearing thereon, but no such hearing shall be necessary unless otherwise required by law.
 4. Any state agency which has issued in the Missouri Register a notice of proposed rulemaking to be made without a hearing, but which thereafter concludes that a hearing is desirable, shall withdraw the earlier notice and file a new notice of proposed rulemaking which fully complies with the provisions of subdivision (6) of subsection 2 of this section, and the state agency shall not schedule the hearing for a time less than thirty days following the publication of the new notice.
 5. Within ninety days after the expiration of the time for filing statements in support of or in opposition to the proposed rulemaking, or within ninety days after the hearing on such proposed rulemaking if a hearing is held thereon, the state agency proposing the rule shall file with the secretary of state a final order of rulemaking either adopting the proposed rule, with or without further changes, or withdrawing the proposed rule, which order of rulemaking shall be published in the Missouri Register. Such ninety days shall be tolled for the time period any rule is held under abeyance pursuant to an executive order. If the state agency fails to file the order of rulemaking as indicated in this subsection, the proposed rule shall lapse and shall be null, void and unenforceable.
 6. The final order of rulemaking shall contain:
 - (1) Reference to the date and page or pages where the notice of proposed rulemaking was published in the Missouri Register;
 - (2) An explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change;
 - (3) The full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking;
 - (4) A brief summary of the general nature and extent of comments submitted in support of or in opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with said rulemaking, together with a concise summary of the state agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule; and
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(5) The legal authority upon which the order of rulemaking is based.

7. Except as provided in section 536.025, any rule, or amendment or rescission thereof, shall be null, void and unenforceable unless made in accordance with the provisions of this section.

8. Except as provided in subsection 1 of this section[, all orders of rulemaking] **and subsection 4 of section 536.031, after the final order of rulemaking has been published in the Missouri Register, the text of the entire rule** shall be published in full in the Missouri code of state regulations. No rule, except an emergency rule, shall become effective prior to the thirtieth day after the date of publication of the revision to the Missouri code of state regulations. The secretary of state shall distribute revisions of the Missouri code of state regulations to all subscribers of the Missouri code of state regulations on or before the date of publication of such revision. The publication date of each rule shall be printed below the rule in the Missouri code of state regulations, provided further, that rules pertaining to changes in hunting or fishing seasons and limits that must comply with federal requirements or that are necessary because of documented changes in fish and game populations may become effective no earlier than on the tenth day after the filing of the final order of rulemaking.

9. If it is found in a contested case by an administrative or judicial fact finder that a state agency's action was based upon a statement of general applicability which should have been adopted as a rule, as required by sections 536.010 to 536.050, and that agency was put on notice in writing of such deficiency prior to the administrative or judicial hearing on such matter, then the administrative or judicial fact finder shall award the prevailing nonstate agency party its reasonable attorney's fees incurred prior to the award, not to exceed the amount in controversy in the original action. This award shall constitute a reviewable order. If a state agency in a contested case grants the relief sought by the nonstate party prior to a finding by an administrative or judicial fact finder that the agency's action was based on a statement of general applicability which should have been adopted as a rule, but was not, then the affected party may bring an action in the circuit court of Cole County for the nonstate party's reasonable attorney's fees incurred prior to the relief being granted, not to exceed the amount in controversy in the original action.

10. The actions authorized by subsection 9 of this section shall not apply to the department of revenue if that department implements the authorization hereby granted to the director or the director's duly authorized agents to issue letter rulings which shall bind the director or the director's agents and their successors for a minimum of three years, subject to the terms and conditions set forth in properly published regulations. An unfavorable letter ruling shall not bind the applicant and shall not be appealable to any forum. Subject to appropriations, letter rulings shall be published periodically with information identifying the taxpayer deleted. For the purposes of this subsection, the term "letter ruling" means a written interpretation of law by the director to a specific set of facts provided by a nonstate party.

536.023. PROCEDURES FOR NUMBERING, INDEXING AND PUBLISHING TO BE PRESCRIBED BY SECRETARY OF STATE. — 1. The secretary of state shall prescribe in [writing] **a format and medium as prescribed by the secretary of state and in writing upon request** uniform procedures for the numbering, indexing, form and publication of all rules, notices of proposed rulemaking and orders of rulemaking. Copies of the procedures shall be furnished by the secretary of state to each state agency and copies thereof shall be permanently maintained in the office of the secretary of state and shall be available for public inspection at all reasonable times.

2. No rule, notice of proposed rulemaking or final order of rulemaking shall be accepted for filing with the secretary of state unless it conforms to said uniform procedures.

3. Each state agency shall adopt as a rule a description of its organization and general courses and methods of its operation and the methods and procedures whereby the public may obtain information or make submissions or requests. Substantial changes in any matter covered by the foregoing description shall be made only in accordance with the procedures set forth in this chapter.

536.031. CODE TO BE PUBLISHED — TO BE REVISED MONTHLY — INCORPORATION BY REFERENCE AUTHORIZED, COURTS TO TAKE JUDICIAL NOTICE — INCORPORATION BY REFERENCE OF CERTAIN RULES, HOW. — 1. There is established a publication to be known as the "Code of State Regulations", which shall be published **in a format and medium as prescribed and in writing upon request** by the secretary of state as soon as practicable after ninety days following January 1, 1976, and may be republished from time to time thereafter as determined by the secretary of state.

2. The code of state regulations shall contain the full text of all rules of state agencies in force and effect upon the effective date of the first publication thereof, and effective September 1, 1990, it shall be revised no less frequently than monthly thereafter so as to include all rules of state agencies subsequently made, amended or rescinded. The code may also include citations, references, or annotations, prepared by the state agency adopting the rule or by the secretary of state, to any intraagency ruling, attorney general's opinion, determination, decisions, order, or other action of the administrative hearing commission, or any determination, decision, order, or other action of a court interpreting, applying, discussing, distinguishing, or otherwise affecting any rule published in the code.

3. The code of state regulations shall be published in looseleaf form in one or more volumes **upon request and a format and medium as prescribed by the secretary of state** with an appropriate index [and cover], and revisions in the text and index may be made by [printing additional pages for insertion in the looseleaf cover] **the secretary of state as necessary and provided in written format upon request.**

4. **An agency may incorporate by reference rules, regulations, standards, and guidelines of an agency of the United States or a nationally or state recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date in order to specify how a copy of the material may be obtained, and shall state that the referenced rule, regulation, standard, or guideline does not include any later amendments or additions. The agency adopting a rule, regulation, standard, or guideline under this section shall maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of the agency and shall make it available to the public for inspection and copying at no more than the actual cost of reproduction.** The secretary of state may omit from the code of state regulations [such rules and] such material incorporated by reference in any rule the publication of which would be unduly cumbersome or expensive[, provided that the full text of such rule or the full text of the material incorporated by reference is made available to any interested person at both the office of the secretary of state and the office of the adopting state agency, and copies thereof made available to any interested party at a cost not to exceed the actual cost of copy reproduction].

5. The courts of this state shall take judicial notice, without proof, of the contents of the code of state regulations.

Approved July 2, 2004

SB 1106 [CCS HCS SCS SB 1106]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Conveys state property located in Buchanan County.

AN ACT to authorize the conveyance of tracts of land owned by the state, with an emergency clause.

SECTION

1. Governor authorized to convey the Glore Psychiatric Museum to the St. Joseph Museum, Inc.
2. Department of mental health authorized to convey property located in Buchanan County.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY THE GLORE PSYCHIATRIC MUSEUM TO THE ST. JOSEPH MUSEUM, INC. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state known as Glore Psychiatric Museum to the St. Joseph Museum, Inc. The property to be conveyed is more particularly described as follows:

Commencing at the northeast corner of Section 10, Township 57 North, Range 35 West, St. Joseph, Buchanan County, Missouri; thence with the east line of the northeast quarter of said section south 00 degrees 12 minutes 27 seconds east, 834.22 feet; thence departing from said line south 89 degrees 47 minutes 41 seconds west, 319.99 feet; thence north 00 degrees 12 minutes 28 seconds west, 295.85 feet; thence north 45 degrees 11 minutes 59 seconds west, 204.32 feet; thence south 89 degrees 54 minutes 02 seconds west, 49.81 feet to the Point of Beginning; thence south 89 degrees 54 minutes 02 seconds west, 300.01 feet; thence north 00 degrees 07 minutes 51 seconds west, 93.00 feet; thence south 89 degrees 54 minutes 01 seconds west, 299.98 feet; thence north 00 degrees 06 minutes 06 seconds west, 271.79 feet; thence north 89 degrees 54 minutes 24 seconds east, 609.78 feet; thence south 01 degrees 25 minutes 41 seconds west, 364.85 feet to the Point of Beginning.

2. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in the artifacts, exhibits, and artifact cases owned by the state which are contained in the property described in section 1 known as the Glore Psychiatric Museum to the St. Joseph Museum, Inc.

3. Consideration for the conveyance described in subsection 1 of this section shall be for the sum of one dollar.

4. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. DEPARTMENT OF MENTAL HEALTH AUTHORIZED TO CONVEY PROPERTY LOCATED IN BUCHANAN COUNTY. — 1. The director of the department of mental health is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property held in trust on behalf of the state by the department of mental health in the county of Buchanan. The property to be conveyed is more particularly described as follows:

All of a tract of land in the Northeast Quarter of Section 4, Township 55 North, Range 33 West, Buchanan County, Missouri, more particularly described as follows: Commencing at the intersection of the East line of said Buchanan County and the North line of said Section 4; thence South 100 feet; thence North 89° 35' West, 313.50 feet; thence South 488.58 feet to the true point of beginning; thence South 220 feet; thence North 89° 35' West, 136.60 feet; thence North 220 feet; thence South 89° 35' East, 136.60 feet to the true point of beginning. Subject to all public and private roads and easements.

Also an Easement for ingress and egress over the existing roadway between State Route H and the above described property, said roadway being more particularly described as follows: Commencing at the intersection of the East line of said Buchanan County and the North line of said Section 4; thence South 100 feet; thence North 89° 35' West, 313.50 feet; thence South 488.58 feet; thence North 89° 35' West, 136.60 feet to the true point of beginning; thence South

415.51 feet; thence South 34° 28' West, 264.34 feet to the Northerly right-of-way line, of State Route H; thence North 89° 37' West along said right-of-way line 60.37 feet; thence North 34° 28' East, 282.65 feet; thence North 400 feet; thence South 89° 35' East, 50 feet to the true point of beginning. As first established in a Warranty Deed dated January 13, 1978 and recorded in Book 1403 at Page 81, in the Office of the Recorder of Deeds, Buchanan County, Missouri, executed by Kathleen Gibson and subsequently established in a Quit Claim Deed dated April 26, 1994 and recorded in Book 1986 at Page 242 in said Recorder's Office.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because the merging of the Glore Psychiatric Museum with the St. Joseph Museum, Inc. is essential in order to preserve the operation of the Glore Psychiatric Museum, and to provide necessary funding for the department of mental health, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.

Approved June 16, 2004

SB 1107 [SB 1107]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Conveys state property to the St. Joseph School District.

AN ACT to authorize the governor to convey a tract of land owned by the state to the St. Joseph School District.

SECTION

1. Governor authorized to convey Woodson Academy to the St. Joseph School District..

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY WOODSON ACADEMY TO THE ST. JOSEPH SCHOOL DISTRICT. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state known as Woodson Academy to the St. Joseph School District. The property to be conveyed is more particularly described as follows:

Commencing at the northeast corner of Section 10, Township 57 North, Range 35 West, St. Joseph, Buchanan County, Missouri; thence with the east line of the northeast quarter of said section south 00 degrees 12 minutes 27 seconds east, 834.22 feet; thence departing from said line south 89 degrees 47 minutes 41 seconds west, 85.02 feet to the Point of Beginning, said point being on the west right-of-way line of 36th Street; thence continuing along said line south 89 degrees 47 minutes 41 seconds west, 234.97 feet; thence north 00 degrees 12 minutes 28 seconds west, 295.85 feet; thence north 45 degrees 11 minutes 59 seconds west, 204.32 feet; thence south 89 degrees 54 minutes 02 seconds west,

49.81 feet; thence north 01 degrees 25 minutes 41 seconds east, 364.85 feet; thence north 89 degrees 54 minutes 24 seconds east, 418.98 feet; thence south 00 degrees 11 minutes 48 seconds east, 804.32 feet to the Point of Beginning.

2. Consideration for the conveyance described in subsection 1 of this section shall be for the sum of one dollar.

3. The attorney general shall approve as to the instrument of conveyance.

Approved June 25, 2004

SB 1114 [HCS SB 1114]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to removal of nuisances.

AN ACT to repeal sections 67.402 and 82.291, RSMo, and to enact in lieu thereof two new sections relating to removal of nuisances.

SECTION

A. Enacting clause.

67.402. Abatement of nuisance in certain counties (Boone, Cole, Jefferson) — ordinance requirements.

82.291. Derelict vehicle, removal as a nuisance (Hazelwood) — definition, procedure — termination date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 67.402 and 82.291, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 67.402 and 82.291, to read as follows:

67.402. ABATEMENT OF NUISANCE IN CERTAIN COUNTIES (BOONE, COLE, JEFFERSON) — **ORDINANCE REQUIREMENTS.** — 1. The governing body of **any county of the first classification with more than one hundred thirty-five thousand four hundred but less than one hundred thirty-five thousand five hundred inhabitants, any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, and** any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances [and], broken furniture, **or overgrown or noxious weeds in residential subdivisions or districts** which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.

2. Any ordinance enacted pursuant to this section shall:

(1) Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may

provide that such notice be served either by personal service or by certified mail, return receipt requested, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days' written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

3. Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

82.291. DERELICT VEHICLE, REMOVAL AS A NUISANCE (HAZELWOOD) — DEFINITION, PROCEDURE — TERMINATION DATE. — 1. For purposes of this section, "derelict vehicle" means any motor vehicle or trailer that was originally designed or manufactured to transport persons or property on a public highway, road, or street and that is junked, scrapped, dismantled, disassembled, or in a condition otherwise harmful to the public health, welfare, peace, and safety.

2. The owner of any property located in any home rule city with more than twenty-six thousand two hundred but less than twenty-six thousand three hundred inhabitants, except any property subclassed as agricultural and horticultural property pursuant to section 4(b), article X, of the Constitution of Missouri or any property containing any licensed vehicle service or repair facility, who permits derelict vehicles or substantial parts of derelict vehicles to remain on the property other than inside a fully enclosed permanent structure designed and constructed for vehicle storage shall be liable for the removal of the vehicles or the parts if they are declared to be a public nuisance.

3. To declare derelict vehicles or parts of derelict vehicles to be a public nuisance, the governing body of the city shall give a hearing upon ten days' notice, either personally or by United States mail to the owner or agent, or by posting a notice of the hearing on the property. At the hearing, the governing body may declare the vehicles or the parts to be public nuisances, and may order the nuisance to be removed within five business days. If the nuisance is not removed within the five days, the governing body or the designated city official shall have the nuisance removed and shall certify the costs of the removal to the city clerk or the equivalent

official, who shall cause a special tax bill for the removal to be prepared against the property and collected by the collector with other taxes assessed on the property, and to be assessed any interest and penalties for delinquency as other delinquent tax bills are assessed as permitted by law.

4. The provisions of this section shall terminate on August 28, [2004] **2005**.

Approved June 24, 2004

SB 1122 [HS HCS SS SS SCS SB 1122]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to professional registration.

AN ACT to repeal sections 209.322, 209.323, 317.011, 324.200, 324.203, 324.205, 324.210, 324.215, 324.400, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 328.080, 332.051, 332.071, 332.081, 332.086, 332.111, 332.121, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665, 335.016, 335.212, 335.245, 337.085, 337.507, 337.615, 337.665, 337.712, 338.013, 338.055, 338.065, 338.220, 345.015, 346.135, 374.700, 374.705, 374.710, 374.715, 374.725, 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 374.765, 436.200, 436.205, 436.209, 436.212, 620.127, and 620.145, RSMo, and to enact in lieu thereof one hundred two new sections relating to professional licensing, with penalty provisions, with an effective date.

SECTION

- A. Enacting clause.
- 209.322. Certificates recognized by the board.
- 209.323. License application forms, content, oath, fee not refundable, qualifications, licenses expire, when — reinstatement procedure — replacement of license lost or destroyed.
- 317.011. Athletic fund, created, source of funds — director only to license certain contests, exceptions — law not applicable to amateur matches.
- 324.200. Dietitian practice act — definitions.
- 324.203. State committee of dietitians established, membership, terms, removal, qualifications, compensation, meetings, quorum, powers and duties.
- 324.205. Title of licensed dietitian, use permitted, when — penalty.
- 324.206. Permitted acts by persons not holding themselves out as dietitians.
- 324.210. Qualifications of applicant for licensure — examination required, exception.
- 324.215. Issuance of license, when — reciprocity — reexamination, limitations.
- 324.216. Inactive licensure status permitted — practice not permitted while on inactive status.
- 324.400. Definitions.
- 324.402. State and local governments prohibited from requiring use of registered interior designers.
- 324.403. Title of registered interior designer, use, when.
- 324.409. Qualifications for registration.
- 324.415. Applications for registration, form — penalties.
- 324.418. Certificate of registration, renewal.
- 324.421. Waiver of examination, when.
- 324.427. Unlawful use of title of registered interior designer.
- 324.430. Designation as registered interior designer prohibited, when.
- 324.433. Right to use title, nontransferable.
- 324.526. Temporary license issued, when.
- 328.075. Barber apprentices, application, fee, requirements — rulemaking authority.
- 328.080. Application for registration, fee, examination, qualifications — approval of schools.
- 332.032. Board president or secretary may administer oaths and subpoena witnesses and documents, when — enforcement of subpoenas.
- 332.051. Office, where — investigators, duties.
- 332.071. Practice of dentistry defined.
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- 332.081. Unlicensed or unregistered practice prohibited — corporation, requirements, exceptions — application for permit to employ dentists and dental hygienists — rulemaking authority.
- 332.086. Advisory commission for dental hygienists established, duties, members, terms, meetings, expenses.
- 332.111. Unregistered or unlicensed practice, penalty.
- 332.121. Board may ask court to enjoin illegal practice — venue.
- 332.122. Reimbursement by health benefit or dental plans, criteria.
- 334.100. Denial, revocation or suspension of license, alternatives, grounds for — reinstatement provisions.
- 334.506. Physical therapists may provide certain services without prescription or direction of certain health care professionals, when — limitations.
- 334.530. Qualifications for license — examinations, scope — failure to pass examination, effect of, waiver permitted when.
- 334.540. License without examination, when — reciprocal agreements authorized, waiver permitted when.
- 334.550. Temporary license, issuance, fees.
- 334.655. Physical therapist assistant, required age, evidence of character and education, educational requirements — board examination, applications — written examination — failure to pass examination, effect of, waiver permitted when — examination topics — examination not required, when.
- 334.660. Reciprocity with other states.
- 334.665. Temporary license.
- 335.016. Definitions.
- 335.212. Definitions.
- 335.245. Definitions.
- 337.085. Fees, collection, disposition, use.
- 337.507. Applications, contents, fees — failure to renew, effect — replacement of certificates, when — fund established — examination, when, notice.
- 337.615. Education, experience requirements — reciprocity.
- 337.642. Discrimination against social workers in promulgation of rules prohibited.
- 337.665. Information required to be furnished committee — reciprocity, when — license issued, when.
- 337.712. Licenses, application, oath, fee — lost certificates — fund.
- 338.013. Pharmacy technician to register with board of pharmacy, fees, application, renewal — refusal to issue, when — employee disqualification list maintained, use.
- 338.055. Denial, revocation or suspension of license, grounds for — expedited procedure — additional discipline authorized, when.
- 338.065. Disciplinary hearings — grounds for discipline.
- 338.145. Board president may administer oaths and issue subpoenas — enforcement of subpoenas.
- 338.155. Immunity from civil liability, when.
- 338.220. Operation of pharmacy without permit or license unlawful — application for permit, classifications, fee — duration of permit.
- 345.015. Definitions.
- 346.135. Hearing instrument specialist fund, created, uses — amount of fund to lapse.
- 374.695. Citation of law.
- 374.700. Definitions.
- 374.702. License required, restrictions on practice.
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- B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 209.322, 209.323, 317.011, 324.200, 324.203, 324.205, 324.210, 324.215, 324.400, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 328.080, 332.051, 332.071, 332.081, 332.086, 332.111, 332.121, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665, 335.016, 335.212, 335.245, 337.085, 337.507, 337.615, 337.665, 337.712, 338.013, 338.055, 338.065, 338.220, 345.015, 346.135, 374.700, 374.705, 374.710, 374.715, 374.725, 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 374.765, 436.200, 436.205, 436.209, 436.212, 620.127, and 620.145, RSMo, are repealed and one hundred two new sections enacted in lieu thereof, to be known as sections 209.322, 209.323, 317.011, 324.200, 324.203, 324.205, 324.206, 324.210, 324.215, 324.216, 324.400, 324.402, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 324.526, 328.075, 328.080, 332.032, 332.051, 332.071, 332.081, 332.086, 332.111, 332.121, 332.122, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665, 335.016, 335.212, 335.245, 337.085, 337.507, 337.615, 337.642, 337.665, 337.712, 338.013, 338.055, 338.065, 338.145, 338.155, 338.220, 345.015, 346.135, 374.695, 374.700, 374.702, 374.705, 374.710, 374.715, 374.716, 374.717, 374.719, 374.730, 374.735, 374.740, 374.755, 374.757, 374.759, 374.763, 374.764, 374.783, 374.784, 374.785, 374.786, 374.787, 374.788, 374.789, 436.215, 436.218, 436.221, 436.224, 436.227, 436.230, 436.233, 436.236, 436.239, 436.242, 436.245, 436.248, 436.251, 436.254, 436.257, 436.260, 436.263, 436.266, 436.269, 436.272, 620.127, and 620.145, to read as follows:

209.322. CERTIFICATES RECOGNIZED BY THE BOARD. — The board shall recognize the following certificates:

- (1) National Registry of Interpreters for the Deaf (NRID) certificates, which include Comprehensive Skills Certificate (CSC), Certificate of Interpreting/Certificate of Transliteration (CI/CT) and Certified Deaf Interpreter (CDI); [and]
- (2) National Association of the Deaf (NAD) certificate levels 3, 4 and 5; **and**
- (3) **A provisional public school certificate.**

209.323. LICENSE APPLICATION FORMS, CONTENT, OATH, FEE NOT REFUNDABLE, QUALIFICATIONS, LICENSES EXPIRE, WHEN — REINSTATEMENT PROCEDURE — REPLACEMENT OF LICENSE LOST OR DESTROYED. — 1. Applications for licensure as an interpreter shall be submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, certification by either the National Registry of Interpreters for the Deaf, National Association of the Deaf or Missouri Interpreter Certification System and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained in the application is true and correct to the best knowledge and belief of the applicant, subject to the penalties, as provided in sections 209.319 to 209.339, for the making of a false affidavit or declaration. Each application shall be accompanied by the required application fee. The application fee must be submitted in a manner as required by the committee and shall not be refundable. The applicant must be eighteen years of age or older.

2. Each license issued pursuant to the provisions of sections 209.319 to 209.339 shall expire on the renewal date. The division shall mail a renewal notice to the last known address of each licensee prior to the [registration] **license** renewal date. The license will expire **and renewal may be denied** upon failure of the licensee to provide the division with the information required for [registration] **renewal including but not limited to satisfactory evidence of current certification** or to pay the required [registration] **renewal** fee within sixty days of the [registration] **license** renewal date. The license may be reinstated within two years after the [registration] **renewal** date, if the applicant applies for reinstatement and pays the required [registration] **license renewal** fee plus a delinquency fee as established by the committee **and provides evidence of current certification.**

3. Except as provided in section 209.321, the committee with assistance from the division shall issue or renew a license to each person who files an application and fee as required by the provisions of sections 209.319 to 209.339 and who furnishes satisfactory evidence to the committee that he has complied with the provisions of subsection 1 or 2 of this section.

4. The committee may issue a new license to replace any license which is lost, destroyed or mutilated upon payment of a fee as provided by the committee.

317.011. ATHLETIC FUND, CREATED, SOURCE OF FUNDS — DIRECTOR ONLY TO LICENSE CERTAIN CONTESTS, EXCEPTIONS — LAW NOT APPLICABLE TO AMATEUR MATCHES. — 1. The division of professional registration shall have the power, and it shall be its duty, to accept application for and issue permits to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri, and to charge a fee for the issuance of same in an amount established by rule; such funds to be paid to the division of professional registration which shall pay such funds into the state treasury to be set apart into the athletic fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the fund for the preceding fiscal year **or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year.** The

amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the fund for the preceding fiscal year.

3. The division of professional registration shall not grant any permit to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri except:

(1) Where such professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest is to be held under the auspices of a promoter duly licensed by the division;

(2) Where such contest shall be of not more than fifteen rounds of three minutes each duration per bout; and

(3) Where a fee has been paid for such permit, in an amount established by rule.

4. In such contests a decision shall be rendered by three judges licensed by the division.

5. Specifically exempted from the provisions of chapter 317, are contests or exhibitions for amateur boxing, amateur kick-boxing, amateur wrestling and amateur full-contact karate. However, all amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate must be sanctioned by a nationally recognized amateur sanctioning body approved by the office.

324.200. DIETITIAN PRACTICE ACT — DEFINITIONS. — 1. Sections 324.200 to 324.225 shall be known and may be cited as the "Dietitian Practice Act".

2. As used in sections 324.200 to 324.225, the following terms shall mean:

(1) ["Committee", the state committee of dietitians;

(2) "Dietitian", a health care professional engaged in the practice of medical nutrition therapy;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration of the department of economic development;

(5) "Licensed dietitian", a person who is licensed pursuant to the provisions of sections 324.200 to 324.225 to engage in the practice of medical nutrition therapy;

(6) "Medical nutrition therapy", specific medical nutrition therapies and treatment modalities based on clinical scientific research and practice that are used to treat illness, conditions and injuries and are referred by a person licensed in this state to prescribe medical nutrition therapies and modalities. Medical nutrition therapy includes clinical nutrition assessment, diet modification and intensive intervention and administration of specialized nutrition therapies.] **"Commission on Accreditation for Dietetics Education (CADE)", the American Dietetic Association's accrediting agency for education programs preparing students for professions as registered dietitians;**

(2) "Committee", the state committee of dietitians established in section 324.203;

(3) **"Dietetics Practice", the application of principles derived from integrating knowledge of food, nutrition, biochemistry, physiology, management, and behavioral and social science to achieve and maintain the health of people by providing nutrition assessment and nutrition care services. The primary function of dietetic practice is the provision of nutrition care services that shall include, but not be limited to:**

(a) **Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting;**

(b) **Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints;**

(c) **Providing nutrition counseling or education in health and disease;**

(d) **Developing, implementing, and managing nutrition care systems;**

(e) **Evaluating, making changes in, and maintaining appropriate standards of quality and safety in food and in nutrition services;**

- (f) Engaged in medical nutritional therapy as defined in subsection 8 of this section;
 - (4) "Dietitian", one engaged in dietetic practice as defined in subsection 3 of this section;
 - (5) "Director", the director of the division of professional registration in the department of economic development;
 - (6) "Division", the division of professional registration of economic development;
 - (7) "Licensed dietitian", a person who is licensed pursuant to the provisions of sections 324.200 to 324.225 to engage in the practice of dietetics or medical nutrition therapy;
 - (8) "Medical nutrition therapy", nutritional diagnostic, therapy, and counseling services which are furnished by a registered dietitian;
 - (9) "Registered dietitian", a person who:
 - (a) Has completed a minimum of a baccalaureate degree granted by a United States regionally accredited college or university or foreign equivalent;
 - (b) Completed the academic requirements of a didactic program in dietetics, as approved by CADE;
 - (c) Successfully completed the registration examination for dietitians; and
 - (d) Accrued seventy-five hours of approved continuing professional units every five years;
- as determined by the committee on dietetic registration.

324.203. STATE COMMITTEE OF DIETITIANS ESTABLISHED, MEMBERSHIP, TERMS, REMOVAL, QUALIFICATIONS, COMPENSATION, MEETINGS, QUORUM, POWERS AND DUTIES. — 1. There is hereby [established] **created within the division of professional registration, a committee to be known as the "State Committee of Dietitians"** [which shall guide, advise and make recommendations to the division and fulfill other responsibilities designated by sections 324.200 to 324.225. The committee shall approve the examination required by section 324.210 and shall assist the division in carrying out the provisions of sections 324.200 to 324.225]. **The committee shall assist the division in administering and enforcing the provisions of sections 324.200 to 324.225, adopt, publish, and enforce such rules and regulations within the scope and purview of the provisions of sections 324.200 to 324.225 as may be considered to be necessary or proper for the effective administration and interpretation of the provisions of sections 324.200 to 324.225, and for the conduct of its business and management of its internal affairs.**

2. The committee shall approve the examination required by section 324.210.

3. The committee shall consist of six members including one public member, appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state, and, except as provided in this section and except for the first members appointed, shall be licensed as a dietitian by this state. Beginning with the first appointments made after August 28, 1998, two members shall be appointed for four years, two members shall be appointed for three years and two members shall be appointed for two years. Thereafter, all members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for a total of eight years. The membership of the committee shall reflect the differences in levels of education and work experience with consideration being given to race, gender, and ethnic origins. No more than three members shall be from the same political party. The membership shall be representative of the various geographic regions of the state.

[3.] **4.** A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

[4.] **5.** Each member of the committee shall receive as compensation an amount set by the division not to exceed fifty dollars, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director, in collaboration with

the department of economic development, shall establish by rule, guidelines for payment. All staff for the committee shall be provided by the division.

[5.] **6.** The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the committee shall consist of a majority of its members.

[6.] **7.** The governor may remove a committee member for misconduct, incompetency, neglect of the member's official duties, or for cause.

[7.] **8.** The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated by sections 324.200 to 324.225, or the spouse of such a person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 324.200 to 324.225, or an activity or organization directly related to any profession licensed or regulated by sections 324.200 to 324.225. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

324.205. TITLE OF LICENSED DIETITIAN, USE PERMITTED, WHEN — PENALTY. — 1. [After July 1, 2000, no person may use the title licensed dietitian or L.D. in this state unless the person is licensed pursuant to the provisions of sections 324.200 to 324.225.

2. Any person who violates the provisions of subsection 1 of this section is guilty of an infraction.] **Any person who holds a license to practice dietetics in this state may use the title "Dietitian" or the abbreviation "L.D.". No other person may use the title "Dietitian" or the abbreviation "L.D.". No other person shall assume any title or use any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed dietitian.**

2. No person shall practice or offer to practice dietetics in this state for compensation or use any title, sign, abbreviation, card, or device to indicate that such person is practicing dietetics unless he or she has been duly licensed pursuant to the provisions of sections 324.200 to 324.225.

3. Any person who violates the provisions of subsection 1 of this section is guilty of a class A misdemeanor.

324.206. PERMITTED ACTS BY PERSONS NOT HOLDING THEMSELVES OUT AS DIETITIANS. — As long as the person involved does not represent or hold himself or herself out as a dietitian as defined by subdivision (2) of subsection 2 of section 324.200, nothing in sections 324.200 to 324.225 is intended to limit, preclude, or otherwise interfere with:

(1) Self-care by a person or gratuitous care by a friend or family member;

(2) Persons in the military services or working in federal facilities from performing any activities described in sections 324.200 to 324.225 during the course of their assigned duties in the military service or a federal facility;

(3) A licensed healthcare provider performing any activities described in sections 324.200 to 324.225 that are within the scope of practice of the licensee;

(4) A person pursuing an approved educational program leading to a degree or certificate in dietetics at an accredited or approved educational program as long as such person does not provide dietetic services outside the educational program. Such person shall be designated by a title that clearly indicates the person's status as a student;

(5) Individuals who do not hold themselves out as dietitians marketing or distributing food products including dietary supplements as defined by the Food and Drug

Administration or engaging in the explanation and education of customers regarding the use of such products;

(6) Any person furnishing general nutrition information as to the use of food, food materials, or dietary supplements, nor prevent in any way the free dissemination of literature; provided, however, no such individual may call himself or herself a dietitian unless he or she is licensed under this chapter.

324.210. QUALIFICATIONS OF APPLICANT FOR LICENSURE — EXAMINATION REQUIRED, EXCEPTION. — 1. An applicant for licensure as a dietitian shall be at least twenty-one years of age.

2. Each applicant shall furnish evidence to the committee that:

(1) The applicant has completed a didactic program in dietetics which is approved or accredited by the commission on [accreditation/approval for dietetic education] **accreditation for dietetics education** and a minimum of a baccalaureate degree from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education. Applicants who have obtained their education outside of the United States and its territories must have their academic degrees validated as equivalent to the baccalaureate or master's degree conferred by a regionally accredited college or university in the United States. Validation of a foreign degree does not eliminate the need for a verification statement of completion of a didactic program in dietetics;

(2) The applicant has completed a supervised practice requirement from an institution that is certified by a nationally recognized professional organization as having a dietetics specialty or who meets criteria for dietetics education established by the committee. The committee may specify those professional organization certifications which are to be recognized and may set standards for education training and experience required for those without such specialty certification to become dietitians.

3. The applicant shall successfully pass an examination as determined by the committee. The committee may waive the examination requirement and grant licensure to an applicant for a license as a dietitian who presents satisfactory evidence to the committee of current registration as a dietitian with the commission on dietetic registration.

4. Prior to July 1, 2000, a person may apply for licensure without examination and shall be exempt from the academic requirements of this section if the committee is satisfied that the applicant has a bachelor's degree in a program approved by the committee and has work experience approved by the committee.

5. The committee may determine the type of documentation needed to verify that an applicant meets the qualifications provided in subsection 3 of this section.

324.215. ISSUANCE OF LICENSE, WHEN — RECIPROCITY — REEXAMINATION, LIMITATIONS. — 1. The committee shall issue a license to each candidate who files an application and pays the fee as required by the provisions of sections 324.200 to 324.225 and who furnishes evidence satisfactory to the committee that the candidate has complied with the provisions of section 324.210 or with the provisions of subsection 2 of this section.

2. The committee may issue a license to any dietitian who has a valid current license to practice **dietetics** or medical nutrition therapy in any jurisdiction, provided that such person is licensed in a jurisdiction whose requirements for licensure are substantially equal to, or greater than, the requirements for licensure of dietitians in Missouri at the time the applicant applies for licensure.

3. The committee may not allow any person to sit for the examination for licensure as a dietitian in this state who has failed the examination as approved by the committee three times, until the applicant submits evidence of satisfactory completion of additional course work or experience and has been approved by the committee for reexamination.

324.216. INACTIVE LICENSURE STATUS PERMITTED — PRACTICE NOT PERMITTED WHILE ON INACTIVE STATUS. — 1. A licensed dietitian may choose not to renew his or her license and thereby allow such license to lapse, or may ask to be put on inactive status, provided such person does not practice dietetics during such period that the license is lapsed or the practitioner is on inactive status. If a person with a lapsed license desires to resume the practice of dietetics, the person shall apply for licensure pursuant to the licensing requirements in effect at the time the person applies to resume the practice of dietetics and pay the required fee as established by the committee. If the person desires to maintain such license on an inactive status and in order to avoid lapsing of such license, the person shall pay the required fee as established by the committee for maintaining an inactive license. An inactive license shall be renewed biennially. An inactive license may be reactivated by the committee as provided by rule.

2. Any person who practices as a dietitian during the time his or her license is inactive or lapsed shall be considered an illegal practitioner and shall be subject to the penalties for violation of the dietitian practice act.

324.400. DEFINITIONS. — As used in sections 324.400 to 324.439, the following terms mean:

- (1) "Council", the interior design council created in section 324.406;
- (2) "Department", the department of economic development;
- (3) "Division", the division of professional registration of the department of economic development;
- (4) "Registered [commercial] interior designer", a design professional who provides services including preparation of documents and specifications relative to nonload bearing interior construction, furniture, finishes, fixtures and equipment and who meets the criteria of education, experience and examination as provided in sections 324.400 to 324.439.

324.402. STATE AND LOCAL GOVERNMENTS PROHIBITED FROM REQUIRING USE OF REGISTERED INTERIOR DESIGNERS. — The state or any county, municipality, or other political subdivision shall not require the use of a registered interior designer for any residential building, residential remodeling, residential rehabilitation, or residential construction purposes.

324.403. TITLE OF REGISTERED INTERIOR DESIGNER, USE, WHEN. — No person may use the name or title, registered [commercial] interior designer, in this state unless that person is registered as required by sections 324.400 to 324.439. Nothing in sections 324.400 to 324.439 shall be construed as limiting or preventing the practice of a person's profession or restricting a person from providing interior design services, provided such person does not indicate to the public that such person is registered as an interior designer pursuant to the provisions of sections 324.400 to 324.439.

324.409. QUALIFICATIONS FOR REGISTRATION. — 1. To be a registered [commercial] interior designer, a person:

(1) Shall take and pass or have passed the examination administered by the National Council for Interior Design Qualification or an equivalent examination approved by the council. In addition to proof of passage of the examination, the application shall provide substantial evidence to the council that the applicant:

(a) Is a graduate of a five-year or four-year interior design program from an accredited institution and has completed at least two years of diversified and appropriate interior design experience; or

(b) Has completed at least three years of an interior design curriculum from an accredited institution and has completed at least three years of diversified and appropriate interior design experience; or

(c) Is a graduate of a two-year interior design program from an accredited institution and has completed at least four years of diversified and appropriate interior design experience; or

(2) May qualify who is currently registered pursuant to sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture and registered with the council. Such applicant shall give authorization to the council in order to verify current registration with sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture.

2. Verification of experience required pursuant to this section shall be based on a minimum of five client references, business or employment verification and five industry references, submitted to the council.

3. The council shall verify if an applicant has complied with the provisions of this section and has paid the required fees, then the council shall recommend such applicant be registered as a registered [commercial] interior designer by the council.

324.415. APPLICATIONS FOR REGISTRATION, FORM — PENALTIES. — Applications for registration as a registered [commercial] interior designer shall be typewritten on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, results of previous interior design certification, registration or licensing examinations, if any, and such other pertinent information as the council may require, or architect's registration number and such other pertinent information as the council may require. Each application shall contain a statement that is made under oath or affirmation and that the representations are true and correct to the best knowledge and belief of the person signing the application. The person shall be subject to the penalties for making a false affidavit or declaration and shall be accompanied by the required fee.

324.418. CERTIFICATE OF REGISTRATION, RENEWAL. — 1. The certificate of registration issued biennially to a registered [commercial] interior designer pursuant to sections 324.400 to 324.439 shall be renewed on or before the certificate renewal date accompanied by the required fee. The certificate of registration of a registered [commercial] interior designer which is not renewed within three months after the certificate renewal date shall be suspended automatically, subject to the right of the holder to have the suspended certificate of registration reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any certificate of registration suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder of such certificate shall have no rights or privileges provided to holders of valid certificates. Any person whose certificate of registration has expired may, upon demonstration of current qualifications and payment of required fees, be reregistered or reauthorized under the person's original certificate of registration number.

2. Each application for the renewal or reinstatement of a registration shall be on a form furnished to the applicant and shall be accompanied by the required fees and proof of current completion of at least one unit every two years of approved or verifiable continuing education in interior design or architecture, immediately prior to such renewal or reinstatement. Ten contact hours constitutes one continuing education unit. Five contact hours of teaching in interior design or architecture constitutes one continuing education unit. One college course credit in interior design or architecture constitutes one continuing education unit.

324.421. WAIVER OF EXAMINATION, WHEN. — The council shall register without examination, any interior designer certified, licensed or registered in another state or territory of the United States or foreign country if the applicant has qualifications which are at least equivalent to the requirements for registration as a registered [commercial] interior designer in this state and such applicant pays the required fees.

324.427. UNLAWFUL USE OF TITLE OF REGISTERED INTERIOR DESIGNER. — It is unlawful for any person to advertise or indicate to the public that the person is a registered [commercial] interior designer in this state, unless such person is registered as a registered [commercial] interior designer by the council and is in good standing pursuant to sections 324.400 to 324.439.

324.430. DESIGNATION AS REGISTERED INTERIOR DESIGNER PROHIBITED, WHEN. — No person may use the designation registered [commercial] interior designer in Missouri, unless the council has issued a current certificate of registration certifying that the person has been duly registered as a registered [commercial] interior designer in Missouri and unless such registration has been renewed or reinstated as provided in section 324.418.

324.433. RIGHT TO USE TITLE, NONTRANSFERABLE. — The right to use the title of registered [commercial] interior designer shall be deemed a personal right, based upon the qualifications of the individual, evidenced by the person's current certificate of registration and such certificate is not transferable; except that, a registered [commercial] interior designer may perform the interior designer's profession through, or as a member of, or as an employee of, a partnership or corporation.

324.526. TEMPORARY LICENSE ISSUED, WHEN. — 1. Notwithstanding any other law to the contrary, the director of the division of professional registration shall issue a temporary license to practice tattooing, body piercing, or branding under the following requirements:

(1) The applicant for temporary licensure is entering the state for the sole purpose of participating in a state or national convention at which the applicant will be practicing the profession of tattooing, body piercing, or branding;

(2) The applicant files a completed application with the division at least two days prior to the start of the convention and tenders a fee of fifty dollars; and

(3) The applicant is otherwise qualified for licensure under sections 324.520 to 324.526 and the rule promulgated under the authority of this statute.

2. A temporary license to practice tattooing, body piercing, or branding issued under this section shall be valid for a period not to exceed fourteen days and shall not be renewable.

3. Notwithstanding the requirements of sections 620.127 and 620.145, RSMo, an applicant for temporary licensure under this section shall not be required to provide a Social Security number if the application is submitted by a citizen of a foreign country who has not yet been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country who applies for a temporary permit under this section shall provide the division of professional registration with his or her visa or passport identification number in lieu of the Social Security number.

328.075. BARBER APPRENTICES, APPLICATION, FEE, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. Any person desiring to practice as an apprentice for barbering in this state shall apply to the board, registered as an apprentice with the board, and shall pay the appropriate fees prior to beginning their apprenticeship. Barber apprentices shall be of good moral character and shall be at least seventeen years of age.

2. Any person desiring to act as an apprentice supervisor for barbering in this state shall first possess a license to practice the occupation of barbering, apply to the board, pay the appropriate fees, complete an eight-hour apprentice supervision instruction course certified by the board, and be issued a certificate of registration as a barber apprentice supervisor prior to supervising barber apprentices.

3. The board may promulgate rules establishing the criteria for the supervision and training of barber apprentices.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

328.080. APPLICATION FOR REGISTRATION, FEE, EXAMINATION, QUALIFICATIONS — APPROVAL OF SCHOOLS. — 1. Any person desiring to practice barbering in this state shall make application for a certificate to the board and shall pay the required barber examination fee. He **or she** shall be present at the next regular meeting of the board for the examination of applicants.

2. The board shall examine the applicant and, upon successful completion of the examination and payment of the required registration fee, shall issue to him **or her** a certificate of registration authorizing him **or her** to practice the trade in this state and enter his name in the register herein provided for, if it finds that he **or she**:

(1) Is seventeen years of age or older and of good moral character;

(2) Is free of contagious or infectious diseases;

(3) Has studied for at least one thousand hours in a period of not less than six months in a properly appointed and conducted barber school under the direct supervision of a licensed instructor; **or, if the applicant is an apprentice, the applicant shall have served and completed no less than two thousand hours under the direct supervision of a licensed barber apprentice supervisor;**

(4) Is possessed of requisite skill in the trade of barbering to properly perform the duties thereof, including the preparation of tools, shaving, haircutting and all the duties and services incident thereto; **and**

(5) Has sufficient knowledge of the common diseases of the face and skin to avoid the aggravation and spread thereof in the practice of barbering.

3. The board shall be the judge of whether the barber school, **the barber apprenticeship**, or college is properly appointed and conducted under proper instruction to give sufficient training in the trade.

4. **The sufficiency of the qualifications of applicants shall be determined by the board.**

5. **For the purposes of meeting the minimum requirements for examination, the apprentice training shall be recognized by the board for a period not to exceed five years.**

332.032. BOARD PRESIDENT OR SECRETARY MAY ADMINISTER OATHS AND SUBPOENA WITNESSES AND DOCUMENTS, WHEN — ENFORCEMENT OF SUBPOENAS. — 1. Upon unanimous consent of the members of the board, the president or secretary of the board shall administer oaths, subpoena witnesses, issue subpoenas duces tecum, and require production of documents and records pertaining to the practice of dentistry. Subpoenas, including subpoenas duces tecum, shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The board may enforce its subpoenas, including subpoena duces tecum, by applying to a circuit court of Cole County, the county of the investigation, hearing, or proceeding, or any county where the person resides or may be found, for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should

not be enforced, which such order and a copy of the application therefore shall be served upon the person in the same manner as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

332.051. OFFICE, WHERE — INVESTIGATORS, DUTIES. — 1. The board shall establish and maintain an office at Jefferson City, Missouri, where its records and files shall be kept.

2. Investigators employed by the board shall, among other duties, have the power in the name of the board to investigate alleged violations of this chapter including the right to inspect, on order of the board, [dental offices, including records, dental laboratories, dental equipment and instruments] **any person licensed to practice dentistry or entity providing dental services in this state, including all facilities and equipment related to the delivery of dental care or the fabrication or adjustment of dental prostheses and all clinical and administrative records related to the dental care of patients** with respect to violations of the provisions of this chapter.

332.071. PRACTICE OF DENTISTRY DEFINED. — A person or other entity "practices dentistry" within the meaning of this chapter who:

(1) Undertakes to do or perform dental work or dental services or dental operations or oral surgery, by any means or methods, including the use of lasers, gratuitously or for a salary or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

(2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions of the oral regions;

(3) Attempts to or does replace or restore a part or portion of a human tooth;

(4) Attempts to or does extract human teeth or attempts to or does correct malformations of human teeth or jaws;

(5) Attempts to or does adjust an appliance or appliances for use in or used in connection with malposed teeth in the human mouth;

(6) Interprets or professes to interpret or read dental radiographs;

(7) Administers an anesthetic in connection with dental services or dental operations or dental surgery;

(8) Undertakes to or does remove hard and soft deposits from or polishes natural and restored surfaces of teeth;

(9) Uses or permits to be used for the person's benefit or for the benefit of any other person or other entity the following titles or words in connection with the person's name: "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or descriptive matter which directly or indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's benefit or for the benefit of any other person or other entity any card, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person;

(10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an office or establishment of any kind in which dental services or dental operations of any kind are performed for any purpose; but this section shall not be construed to prevent owners or lessees of real estate from lawfully leasing premises to those who are qualified to practice dentistry within the meaning of this chapter;

(11) **Controls, influences, attempts to control or influence, or otherwise interferes with the dentist's independent professional judgment regarding the diagnosis or treatment of a dental disease, disorder, or physical condition except that any opinion rendered by any**

health care professional licensed under this chapter or chapter 330, 331, 334, 335, 336, 337, or 338, RSMo, regarding the diagnosis, treatment, disorder, or physical condition of any patient shall not be construed to control, influence, attempt to control or influence or otherwise interfere with a dentist's independent professional judgement;

(12) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except when one, not a registered and licensed dentist, does so pursuant to a written uniform laboratory work order, in the form to be prescribed by the board and copies of which shall be retained by the nondentist for two years, of a dentist registered and currently licensed in Missouri and which the substitute in this subdivision described is constructed upon or by use of casts or models made from an impression furnished by a dentist registered and currently licensed in Missouri;

[(12)] (13) Attempts to or does place any substitute described in subdivision [(11)] (12) of this section in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute to any person other than the dentist upon whose order the work in producing the substitute was performed;

[(13)] (14) Advertises, solicits, or offers to or does sell or deliver any substitute described in subdivision [(11)] (12) of this section or offers to or does sell the person's services in constructing, reproducing, supplying or repairing the substitute to any person other than a registered and licensed dentist in Missouri;

[(14)] (15) Undertakes to do or perform any physical evaluation of a patient in the person's office or in a hospital, clinic, or other medical or dental facility prior to or incident to the performance of any dental services, dental operations, or dental surgery;

(16) **Reviews examination findings, x-rays, or other patient data to make judgments or decisions about the dental care rendered to a patient in this state.**

332.081. UNLICENSED OR UNREGISTERED PRACTICE PROHIBITED — CORPORATION, REQUIREMENTS, EXCEPTIONS — APPLICATION FOR PERMIT TO EMPLOY DENTISTS AND DENTAL HYGIENISTS — RULEMAKING AUTHORITY. — 1. No person **or other entity** shall practice dentistry in Missouri **or provide dental services** as defined in section 332.071 unless and until the board has issued to the person a certificate certifying that the person has been duly registered as a dentist in Missouri **or to an entity that has been duly registered to provide dental services by licensed dentists and dental hygienists** and unless and until the board has issued to the person a license, to be renewed each period, as provided in this chapter, to practice dentistry **or as a dental hygienist, or has issued to the person or entity a permit, to be renewed each period, to provide dental services** in Missouri[; but]. Nothing in this chapter shall be so construed as to make it unlawful for: [a legally qualified and licensed physician or surgeon, who does not practice dentistry as a specialty, from extracting teeth, or to make it unlawful for a dentist licensed in a state other than Missouri from making a clinical demonstration before a meeting of dentists in Missouri, or to make it unlawful for dental students in any accredited dental school to practice dentistry under the personal direction of instructors, or to make it unlawful for any duly registered and licensed dental hygienist in Missouri to practice as a dental hygienist as defined in section 332.091, or to make it unlawful for dental assistants, certified dental assistants or expanded functions dental assistants to be delegated duties as defined in section 332.093, or to make it unlawful for persons to practice dentistry in the United States armed services or in or for the United States Public Health Service, or in or for the United States Veterans Bureau, or to make it unlawful to teach in an accredited dental school, or to make it unlawful for a duly qualified anesthesiologist or anesthetist to administer an anesthetic in connection with dental services or dental surgery.]

(1) **A legally qualified physician or surgeon, who does not practice dentistry as a specialty, from extracting teeth;**

(2) **A dentist licensed in a state other than Missouri from making a clinical demonstration before a meeting of dentists in Missouri;**

(3) Dental students in any accredited dental school to practice dentistry under the personal direction of instructors;

(4) Dental hygiene students in any accredited dental hygiene school to practice dental hygiene under the personal direction of instructors;

(5) A duly registered and licensed dental hygienist in Missouri to practice dental hygiene as defined in section 332.091;

(6) A dental assistant, certified dental assistant, or expanded functions dental assistant to be delegated duties as defined in section 332.093;

(7) A duly registered dentist or dental hygienist to teach in an accredited dental or dental hygiene school;

(8) A duly qualified anesthesiologist or nurse anesthetist to administer an anesthetic in connection with dental services or dental surgery; or

(9) A person to practice dentistry in or for:

(a) The United States armed forces;

(b) The United States Public Health Service;

(c) Migrant, community, or health care for the homeless health centers provided in section 330 of the Public Health Service Act (42 U.S.C. 254b);

(d) Federally qualified health centers as defined in section 1905(l) (42 U.S.C. 1396d(l)) of the Social Security Act;

(e) Governmental entities, including county health departments; or

(f) The United States Veterans Bureau.

(10) A dentist licensed in a state other than Missouri to evaluate a patient or render an oral, written, or otherwise documented dental opinion when providing testimony or records for the purpose of a civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state.

2. No corporation shall practice dentistry as defined in section 332.071 unless that corporation is organized under the provisions of chapter 355 or 356, RSMo, **provided that a corporation organized under the provisions of chapter 355, RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), may only employ dentists and dental hygienists licensed in this state to render dental services to Medicaid recipients, low-income individuals who have available income below two hundred percent of the federal poverty level, and all participants in the SCHIP program, unless such limitation is contrary to or inconsistent with federal or state law or regulation. This subsection shall not apply to:**

(1) A hospital licensed under chapter 197, RSMo, that provides care and treatment only to children under the age of eighteen at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(2) A federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396(d)(l)), or a migrant, community, or health care for the homeless health center provided for in Section 330 of the Public Health Services Act (42 U.S.C. 254(b)) at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(3) A city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(4) A social welfare board organized under section 205.770, RSMo, a city health department operating under a city charter, or a city-county health department at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(5) Any entity that has received a permit from the dental board and does not receive compensation from the patient or from any third party on the patient's behalf at which a person regulated under this chapter provides dental care within the scope of his or her license or registration;

(6) Any hospital nonprofit corporation exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended, that engages in its operations and provides dental services at facilities owned by a city, county, or other political subdivision of the state at which a person regulated under this chapter provides dental care within the scope of his or her license or registration.

If any of the entities exempted from the requirements of this subsection are unable to provide services to a patient due to the lack of a qualified provider and a referral to another entity is made, the exemption shall extend to the person or entity that subsequently provides services to the patient.

3. No unincorporated organization shall practice dentistry as defined in section 332.071, RSMo, unless such organization is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and provides dental treatment without compensation from the patient or any third party on their behalf as a part of a broader program of social services including food distribution. Nothing in this chapter shall prohibit organizations under this subsection from employing any person regulated by this chapter.

4. A dentist shall not enter into a contract that allows a person who is not a dentist to influence or interfere with the exercise of the dentist's independent professional judgment.

5. A not-for-profit corporation organized under the provisions of chapter 355, RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), an unincorporated organization operating pursuant to subsection 3 of this section, or any other person should not direct or interfere or attempt to direct or interfere with a licensed dentist's professional judgment and competent practice of dentistry. Nothing in this subsection shall be so construed as to make it unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and procedure manuals, or quality improvement or assurance requirements.

6. All entities defined in subsection 2 of this section and those exempted under subsection 3 of this section shall apply for a permit to employ dentists and dental hygienists licensed in this state to render dental services, and the entity shall apply for the permit in writing on forms provided by the Missouri dental board. The board shall not charge a fee of any kind for the issuance or renewal of such permit. The provisions of this subsection shall not apply to a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)).

7. Any entity that obtains a permit to render dental services in this state is subject to discipline pursuant to section 332.321. If the board concludes that the person or entity has committed an act or is engaging in a course of conduct that would be grounds for disciplinary action, the board may file a complaint before the administrative hearing commission. The board may refuse to issue or renew the permit of any entity for one or any combination of causes stated in subsection 2 of section 332.321. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8. A federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)) shall register with the board. The information provided to the board as part of the registration shall include the name of the health center, the non-profit status of the health center, sites where dental services will be provided, and the names of all persons employed by, or contracting with, the health center who are required to hold a license pursuant to this chapter. The registration shall be renewed every twenty-four months. The board shall not charge a fee of any kind for the issuance or renewal of the registration. The registration of the health center shall not be subject to discipline pursuant to section 332.321. Nothing in this subsection shall prohibit disciplinary action

against a licensee of this chapter who is employed by, or contracts with, such health center for the actions of the licensee in connection with such employment or contract. All licensed persons employed by, or contracting with, the health center shall certify in writing to the board at the time of issuance and renewal of the registration that the facility of the health center meets the same operating standards regarding cleanliness, sanitation, and professionalism as would the facility of a dentist licensed by this chapter. The board shall promulgate rules regarding such standards.

9. The board may promulgate rules and regulations to ensure not-for-profit corporations are rendering care to the patient populations as set forth herein, including requirements for covered not-for-profit corporations to report patient census data to the board. The provisions of this subsection shall not apply to a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)).

10. All not-for-profit corporations organized or operated pursuant to the provisions of chapter 355, RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), or the requirements relating to migrant, community, or health care for the homeless health centers provided in Section 330 of the Public Health Service Act (42 U.S.C. 254b) and federally qualified health centers as defined in Section 1905(l) (42 U.S.C. 1396d(l)) of the Social Security Act, that employ persons who practice dentistry or dental hygiene in this state shall do so in accordance with the relevant laws of this state except to the extent that such laws are contrary to, or inconsistent with, federal statute or regulation.

332.086. ADVISORY COMMISSION FOR DENTAL HYGIENISTS ESTABLISHED, DUTIES, MEMBERS, TERMS, MEETINGS, EXPENSES. — 1. There is hereby established a five-member "Advisory Commission for Dental Hygienists", composed of dental hygienists appointed by the governor as provided in subsection 2 of this section and the dental hygienist member of the Missouri dental board, which shall guide, advise and make recommendations to the Missouri dental board. The commission shall:

- (1) Recommend the educational requirements to be registered as a dental hygienist;
- (2) Annually review the practice act of dental hygiene;
- (3) Make recommendations to the Missouri dental board regarding the practice, licensure, examination and discipline of dental hygienists; and
- (4) Assist the board in any other way necessary to carry out the provisions of this chapter as they relate to dental hygienists.

2. The members of the commission shall be appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of Missouri for one year and shall be a dental hygienist registered and currently licensed pursuant to this chapter. Members of the commission who are not also members of the Missouri dental board shall be appointed for terms of five years, except for the members first appointed, one of which shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. The dental hygienist member of the Missouri dental board shall become a member of the commission and shall serve a term concurrent with the member's term on the dental board. All members of the initial commission shall be appointed by April 1, 2002. Members shall be chosen from lists submitted by the director of the division of professional registration. Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists Association.

3. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The commission shall meet in conjunction with the dental board meetings or no more than fourteen days prior to regularly scheduled dental board meetings. Additional meetings shall require a majority vote of the commission. A quorum of the commission shall consist of a majority of its members.

4. Members of the commission shall [serve without] **receive as compensation [but] an amount set by the Missouri dental board not to exceed fifty dollars for each day devoted to the duties of the commission and** shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties on the commission and in attending meetings of the Missouri dental board. The Missouri dental board shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission.

332.111. UNREGISTERED OR UNLICENSED PRACTICE, PENALTY. — Any person who practices dentistry as defined in section 332.071, **or as a dental hygienist as defined in section 332.091**, who is not [a] duly registered and currently licensed [dentist] in Missouri as hereinafter provided, [or any person who practices as a dental hygienist as defined in section 332.091 who is not a duly registered and currently licensed dental hygienist in Missouri as hereinafter provided] is guilty of a class A misdemeanor.

332.121. BOARD MAY ASK COURT TO ENJOIN ILLEGAL PRACTICE — VENUE. — 1. Upon application by the board and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person [or], **corporation, firm, or other entity** from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required by this chapter upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee; **or**

(3) **Directing, interfering with, or attempting to direct or interfere with a licensed dentist's professional judgment or competent practice of dentistry.**

Nothing in this subsection shall be so construed as to make it unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and procedure manuals, or quality improvement or assurance requirements.

2. Any such action shall be commenced either in the county in which the defendant resides or in the county in which such conduct occurred.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

332.122. REIMBURSEMENT BY HEALTH BENEFIT OR DENTAL PLANS, CRITERIA. — 1. **The determination of whether a service provided to a patient is covered or reimbursable under the terms of a health benefit or dental benefit plan and the creation and management of a health care provider network are:**

(1) **Deemed not to be the practice of dentistry or other profession governed by this chapter; and**

(2) **Not in any way subject to the provisions of this chapter.**

2. **Claims, records, and documents pertaining to the operations of a health carrier, health benefit plan, dental benefit plan, or health care provider network are not clinical and administrative records under section 332.051.**

3. **Nothing in subsection 1 or 2 of this section shall be construed as affecting the obligations of a health carrier, under chapters 354 and 376, RSMo, as health carrier is defined in section 376.1350, RSMo.**

334.100. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, ALTERNATIVES, GROUNDS FOR — REINSTATEMENT PROVISIONS. —

1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

(k) Failing to furnish details of a patient's medical records to other treating physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

(l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;

(m) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

(n) Failure to timely pay license renewal fees specified in this chapter;

(o) Violating a probation agreement with this board or any other licensing agency;

(p) Failing to inform the board of the physician's current residence and business address;

(q) Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a financial interest in any organization, corporation or association which issues or conducts such advertising;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license

to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

(16) Using, or permitting the use of, the person's name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(17) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(18) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

(19) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, **notwithstanding section 334.010 to the contrary**, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing;

(20) Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

(21) Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that physician's office or other entities under that

physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

(22) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

(23) Revocation, suspension, limitation or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not;

(24) For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, RSMo, and such facility has failed to obtain or renew a license as an ambulatory surgical center;

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licensee graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable

intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section.

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

334.506. PHYSICAL THERAPISTS MAY PROVIDE CERTAIN SERVICES WITHOUT PRESCRIPTION OR DIRECTION OF CERTAIN HEALTH CARE PROFESSIONALS, WHEN — LIMITATIONS. — 1. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from providing educational resources and training, developing fitness or wellness programs for asymptomatic persons, or providing screening or consultative services within the scope of physical therapy practice without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, except that no physical therapist shall initiate treatment for a new injury or illness without the prescription or direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or

a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing.

2. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from examining and treating, without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, any person with a recurring, self-limited injury within one year of diagnosis by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, or any person with a chronic illness that has been previously diagnosed by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, except that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection, shall not change an existing physical therapy referral available to the physical therapist without approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, any patient whose medical condition should, at the time of examination or treatment, be determined to be beyond the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, any person whose condition, for which physical therapy services are rendered pursuant to this subsection, has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever shall come first. If the person's condition for which physical therapy services are rendered under this subsection shall be documented to be progressing toward documented treatment goals, a physical therapist may continue treatment without referral from a physician, chiropractor, dentist or podiatrist, whose license is in good standing. If treatment rendered under this subsection is to continue beyond thirty days, a physical therapist shall notify the patient's current physician, chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation. A physical therapist shall also perform such notification before continuing treatment rendered under this subsection for each successive period of thirty days.

3. The provision of physical therapy services of evaluation and screening pursuant to this section, shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section, may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the provisions of subsection 2 of this section, may be delegated by physical therapists to physical therapist assistants only if the patient's current physician, chiropractor, dentist, or podiatrist has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection 2 of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to

provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing. Nothing in this subsection shall prohibit a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction** whose license is in good standing, from acting within the scope of their practice as defined by the applicable chapters of RSMo.

4. No person licensed to practice, or applicant for licensure, as a physical therapist or physical therapist assistant shall make a medical diagnosis.

334.530. QUALIFICATIONS FOR LICENSE — EXAMINATIONS, SCOPE — FAILURE TO PASS EXAMINATION, EFFECT OF, WAIVER PERMITTED WHEN. — 1. A candidate for license to practice as a physical therapist shall be at least twenty-one years of age. A candidate shall furnish evidence of such person's good moral character and the person's educational qualifications by submitting satisfactory evidence of completion of a program of physical therapy education approved as reputable by the board. A candidate who presents satisfactory evidence of the person's graduation from a school of physical therapy approved as reputable by the American Medical Association or, if graduated before 1936, by the American Physical Therapy Association, or if graduated after 1988, the Commission on Accreditation for Physical Therapy Education or its successor, is deemed to have complied with the educational qualifications of this subsection.

2. Persons desiring to practice as physical therapists in this state shall appear before the board at such time and place as the board may direct and be examined as to their fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications set forth in subsection 1 of this section. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration. [The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.]

3. **The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.**

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.

5. The examination of qualified candidates for licenses to practice physical therapy shall include a written examination and shall embrace the subjects taught in reputable programs of physical therapy education, sufficiently strict to test the qualifications of the candidates as practitioners. [The examination shall be given by the board at least once each year and shall be administered to all candidates, and the examination given at any particular time shall be the same for all candidates and the same subjects shall be included and the same questions shall be asked. Candidates shall be required to achieve a passing score, as determined by the board, on an examination before being issued a license.]

4.] 6. The examination shall embrace, in relation to the human being, the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology, psychology, physical therapy theory and procedures as related to medicine, surgery and psychiatry, and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice physical therapy.

[5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years, after which they may be destroyed.]

334.540. LICENSE WITHOUT EXAMINATION, WHEN — RECIPROCAL AGREEMENTS AUTHORIZED, WAIVER PERMITTED WHEN. — 1. The board shall issue a license to any physical therapist who is licensed in another jurisdiction and who has had no violations, suspensions or revocations of a license to practice physical therapy in any jurisdiction, provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of physical therapists in Missouri at the time the applicant applies for licensure.

2. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in subsection 1 of this section, shall be required to pay the same fee as the fee required to be paid by applicants who apply to take the examination before the board. Within the limits provided in this section, the board may negotiate reciprocal compacts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, the board shall not issue a license to any applicant who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) **The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;**

(2) **The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.**

334.550. TEMPORARY LICENSE, ISSUANCE, FEES. — [1. Upon the applicant paying a temporary license fee, the board shall issue without examination a temporary license to practice physical therapy for a period of time not to extend beyond the time when the results of the next examination are announced to any person who meets the qualifications of subsection 1 of section 334.530; provided that, the applicant has not previously been examined in one or more states or

territories of the United States or the District of Columbia. The temporary license may be renewed at the discretion of the board and payment of the temporary license fee.

2. The board may once renew a temporary license issued pursuant to this section if the licensee fails to sit for the next scheduled examination; provided that, the applicant shows good and exceptional cause for failing to sit for the examination. The applicant shall state the good and exceptional cause in writing and shall verify such statement by oath. The board shall define good and exceptional cause by rules and regulations.

3. The board may issue a temporary license to any first-time applicant for licensure by examination if such person submits an agreement-to-supervise form which is signed by the applicant's supervising physical therapist.] **An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.530, may pay a temporary license fee and submit an agreement-to-supervise form, which is signed by the applicant's supervising physical therapist, to the board and obtain without examination a nonrenewable temporary license.** Such temporary licensee may only engage in the practice of physical therapy under the supervision of a licensed physical therapist. The board shall define the scope of such supervision by rules and regulations. **The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.**

334.655. PHYSICAL THERAPIST ASSISTANT, REQUIRED AGE, EVIDENCE OF CHARACTER AND EDUCATION, EDUCATIONAL REQUIREMENTS — BOARD EXAMINATION, APPLICATIONS — WRITTEN EXAMINATION — FAILURE TO PASS EXAMINATION, EFFECT OF, WAIVER PERMITTED WHEN — EXAMINATION TOPICS — EXAMINATION NOT REQUIRED, WHEN. — 1. A candidate for licensure to practice as a physical therapist assistant shall be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral character and of the person's educational qualifications. The educational requirements for licensure as a physical therapist assistant are:

(1) A certificate of graduation from an accredited high school or its equivalent; and

(2) Satisfactory evidence of completion of an associate degree program of physical therapy education accredited by the commission on accreditation of physical therapy education.

2. Persons desiring to practice as a physical therapist assistant in this state shall appear before the board at such time and place as the board may direct and be examined as to the person's fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications provided in subsection 1 of this section. Each application shall contain a statement that the statement is made under oath of affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration.

3. The examination of qualified candidates for licensure to practice as physical therapist assistants shall embrace a written examination and which shall cover the curriculum taught in accredited associate degree programs of physical therapy assistant education. Such examination shall be sufficient to test the qualification of the candidates as practitioners. [The examination shall be given by the board at least once each year. The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia. The examination given at any particular time shall be the same for all candidates and the same curriculum shall be included and the same questions shall be asked.]

4. **The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination**

administered in one or more states or territories of the United States or the District of Columbia.

5. The board may waive the provisions of subsection 4 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

6. The examination shall include, as related to the human body, the subjects of anatomy, kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as related to medicine and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice as a physical therapist assistant.

[5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years and thereafter may be destroyed.

6.] 7. The board shall license without examination any legally qualified person who is a resident of this state and who was actively engaged in practice as a physical therapist assistant on August 28, 1993. The board may license such person pursuant to this subsection until ninety days after the effective date of this section.

[7.] 8. A candidate to practice as a physical therapist assistant who does not meet the educational qualifications may submit to the board an application for examination if such person can furnish written evidence to the board that the person has been employed in this state for at least three of the last five years under the supervision of a licensed physical therapist and such person possesses the knowledge and training equivalent to that obtained in an accredited school. The board may license such persons pursuant to this subsection until ninety days after rules developed by the state board of healing arts regarding physical therapist assistant licensing become effective.

334.660. RECIPROCITY WITH OTHER STATES. — 1. The board shall license without examination legally qualified persons who hold certificates of licensure, registration or certification in any state or territory of the United States or the District of Columbia, who have had no violations, suspensions or revocations of such license, registration or certification, if such persons have passed a written examination to practice as a physical therapist assistant that was substantially equal to the examination requirements of this state and in all other aspects, including education, the requirements for such certificates of licensure, registration or certification were, at the date of issuance, substantially equal to the requirements for licensure in this state. [The board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.]

2. Board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.

3. The board may waive the provisions of subsection 1 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

4. Every applicant for a license pursuant to this section, upon making application and providing documentation of the necessary qualifications as provided in this section, shall pay the same fee required of applicants to take the examination before the board. Within the limits of this section, the board may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

334.665. TEMPORARY LICENSE. — [Upon the applicant paying a temporary fee, the board shall issue, without examination, a temporary license to practice as a physical therapist assistant for a period of time not to exceed beyond the time when the results of the next examination are announced to any person who meets the qualifications of section 334.655. The temporary license may be renewed at the discretion of the board and upon payment of a temporary license fee.] **An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.655 may pay a temporary license fee and submit an agreement-to-supervise form which is signed by the applicant's supervising physical therapist to the board and obtain without examination a nonrenewable temporary license. Such temporary licensee may only practice under the supervision of a licensed physical therapist. A licensed physical therapist shall supervise no more than one temporary licensee. The board shall define the scope of such supervision by rules and regulations. The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.**

335.016. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the following words and terms mean:

(1) "Accredited", the official authorization or status granted by an agency for a program through a voluntary process;

(2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing education and is certified by a nationally recognized professional organization as having a nursing specialty, or who meets criteria for advanced practice nurses established by the board of nursing. The board of nursing may promulgate rules specifying which professional nursing organization certifications are to be recognized as advanced practice nurses, and may set standards for education, training and experience required for those without such specialty certification to become advanced practice nurses. **Advanced practice nurses and only such individuals may use the title "Advanced Practice Registered Nurse" and the abbreviation "APRN";**

(3) "Approval", official recognition of nursing education programs which meet standards established by the board of nursing;

(4) "Board" or "state board", the state board of nursing;

(5) "Executive director", a qualified individual employed by the board as executive secretary or otherwise to administer the provisions of this chapter under the board's direction. Such person employed as executive director shall not be a member of the board;

(6) "Inactive nurse", as defined by rule pursuant to section 335.061;

(7) A "licensed practical nurse" or "practical nurse", a person licensed pursuant to the provisions of this chapter to engage in the practice of practical nursing;

(8) "Licensure", the issuing of a license to practice professional or practical nursing to candidates who have met the specified requirements and the recording of the names of those persons as holders of a license to practice professional or practical nursing;

(9) "Practical nursing", the performance for compensation of selected acts for the promotion of health and in the care of persons who are ill, injured, or experiencing alterations in normal health processes. Such performance requires substantial specialized skill, judgment and knowledge. All such nursing care shall be given under the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a

registered professional nurse. For the purposes of this chapter, the term "direction" shall mean guidance or supervision provided by a person licensed by a state regulatory board to prescribe medications and treatments or a registered professional nurse, including, but not limited to, oral, written, or otherwise communicated orders or directives for patient care. When practical nursing care is delivered pursuant to the direction of a person licensed by a state regulatory board to prescribe medications and treatments or under the direction of a registered professional nurse, such care may be delivered by a licensed practical nurse without direct physical oversight;

(10) "Professional nursing", the performance for compensation of any act which requires substantial specialized education, judgment and skill based on knowledge and application of principles derived from the biological, physical, social and nursing sciences, including, but not limited to:

(a) Responsibility for the teaching of health care and the prevention of illness to the patient and his or her family;

(b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill, injured or experiencing alterations in normal health processes;

(c) The administration of medications and treatments as prescribed by a person licensed by a state regulatory board to prescribe medications and treatments;

(d) The coordination and assistance in the delivery of a plan of health care with all members of a health team;

(e) The teaching and supervision of other persons in the performance of any of the foregoing;

(11) A "registered professional nurse" or "registered nurse", a person licensed pursuant to the provisions of this chapter to engage in the practice of professional nursing.

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

(1) "Board", the Missouri state board of nursing;

(2) "Department", the Missouri department of health and senior services;

(3) "Director", director of the Missouri department of health and senior services;

(4) "Eligible student", a resident who has made application to be a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;

(5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;

(6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any **hospital as defined in section 197.020, RSMo**, or public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

335.245. DEFINITIONS. — As used in sections 335.245 to 335.259, the following terms mean:

- (1) "Department", the Missouri department of health and senior services;
- (2) "Eligible applicant", a Missouri licensed nurse who has attained either an associate degree, a diploma, a bachelor of science, or graduate degree in nursing from an accredited institution approved by the board of nursing or a student nurse in the final year of a full-time baccalaureate school of nursing leading to a baccalaureate degree or graduate nursing program leading to a master's degree in nursing and has agreed to serve in an area of defined need as established by the department;
- (3) "Participating school", an institution within this state which grants an associate degree in nursing, grants a bachelor or master of science degree in nursing or provides a diploma nursing program which is accredited by the state board of nursing, or a regionally accredited institution in this state which provides a bachelor of science completion program for registered professional nurses;
- (4) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any **hospital as defined in section 197.020, RSMo, or** public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section.

337.085. FEES, COLLECTION, DISPOSITION, USE. — 1. There is hereby established in the state treasury a fund to be known as the "State Committee of Psychologists Fund". All fees of any kind and character authorized under sections 337.010 to 337.090 to be charged by the committee or division shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury for credit to this fund. Such funds, upon appropriation, shall be disbursed only in payment of expenses of maintaining the committee and for the enforcement of the provisions of law concerning professions regulated by the committee. No other money shall be paid out of the state treasury for carrying out these provisions. Warrants shall be issued on the state treasurer for payment out of the fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the committee's fund for the preceding fiscal year **or, if the committee requires by rule renewal less frequently than yearly then three times the appropriation from the committee's fund for the preceding fiscal year.** The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the committee's fund for the preceding fiscal year.

3. All funds pertaining to the Missouri state committee of psychologists deposited in the state treasury to the credit of the committee of registration for the healing arts fund shall be transferred from that fund to the state committee of psychologists fund by the division director.

337.507. APPLICATIONS, CONTENTS, FEES — FAILURE TO RENEW, EFFECT — REPLACEMENT OF CERTIFICATES, WHEN — FUND ESTABLISHED — EXAMINATION, WHEN, NOTICE. — 1. Applications for examination and licensure as a professional counselor shall be in writing, submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing his education, experience and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the registration renewal date. Failure to provide the division with the information required for registration, or to pay the registration fee after such notice shall effect a revocation of the license after a period of sixty days from the registration renewal date. The license shall be restored if, within two years of the registration date, the applicant provides written application and the payment of the registration fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a fee.

4. The committee shall set the amount of the fees which sections 337.500 to 337.540 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.500 to 337.540. All fees provided for in sections 337.500 to 337.540 shall be collected by the director who shall deposit the same with the state treasurer in a fund to be known as the "Committee of Professional Counselors Fund".

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the committee's fund for the preceding fiscal year **or, if the committee requires by rule renewal less frequently than yearly then three times the appropriation from the committee's fund for the preceding fiscal year.** The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the committee's fund for the preceding fiscal year.

6. The committee shall hold public examinations at least two times per year, at such times and places as may be fixed by the committee, notice of such examinations to be given to each applicant at least ten days prior thereto.

337.615. EDUCATION, EXPERIENCE REQUIREMENTS — RECIPROCITY. — 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has twenty-four months of supervised clinical experience acceptable to the committee, as defined by rule;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person [not a resident of this state] holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for clinical social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.612.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.639 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2)

of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.642. DISCRIMINATION AGAINST SOCIAL WORKERS IN PROMULGATION OF RULES PROHIBITED. — No official, employee, board, commission, or agency of the state of Missouri, any county, any municipality, any school district, or any other political subdivision shall discriminate between persons licensed under section 337.600 to 337.689, when promulgating regulations or when requiring or recommending services that legally may be performed by persons licensed under sections 337.600 to 337.689.

337.665. INFORMATION REQUIRED TO BE FURNISHED COMMITTEE — RECIPROCITY, WHEN — LICENSE ISSUED, WHEN. — 1. Each applicant for licensure as a baccalaureate social worker shall furnish evidence to the committee that:

(1) The applicant has a baccalaureate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social work;

(3) The applicant has completed three thousand hours of supervised baccalaureate experience with a licensed clinical social worker or licensed baccalaureate social worker in no less than twenty-four and no more than forty-eight consecutive calendar months;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure;

(5) The applicant has submitted a written application on forms prescribed by the state board;

(6) The applicant has submitted the required licensing fee, as determined by the division.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure pursuant to section 337.680 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person [not a resident of this state] holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for baccalaureate social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.662.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.650 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a one-time provisional baccalaureate social worker license to any applicant who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this section, but who has not completed the supervised baccalaureate experience required by subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a baccalaureate social worker upon completion of the supervised baccalaureate experience.

337.712. LICENSES, APPLICATION, OATH, FEE — LOST CERTIFICATES — FUND. — 1. Applications for licensure as a marital and family therapist shall be in writing, submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to

the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the division.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the division with the information required for license, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the division upon payment of a fee.

4. The division shall set the amount of the fees authorized. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.700 to 337.739. All fees provided for in sections 337.700 to 337.739 shall be collected by the director who shall deposit the same with the state treasurer to a fund to be known as the "Marital and Family Therapists' Fund".

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the marital and family therapists' fund for the preceding fiscal year **or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year.** The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the marital and family therapists' fund for the preceding fiscal year.

338.013. PHARMACY TECHNICIAN TO REGISTER WITH BOARD OF PHARMACY, FEES, APPLICATION, RENEWAL — REFUSAL TO ISSUE, WHEN — EMPLOYEE DISQUALIFICATION LIST MAINTAINED, USE. — 1. Any person desiring to assist a pharmacist in the practice of pharmacy as defined in this chapter shall apply to the board of pharmacy for registration as a pharmacy technician. [Such applicant shall not have engaged in conduct or behavior determined to be grounds for discipline pursuant to this chapter.] Such applicant shall **be, at a minimum, legal working age and shall** forward to the board the appropriate fee and written application on a form provided by the board. Such registration shall be the sole authorization permitted to allow persons to assist licensed pharmacists in the practice of pharmacy as defined in this chapter.

2. **The board may refuse to issue a certificate of registration as a pharmacy technician to an applicant that has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, to a violation of any state, territory or federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055. Alternately, the board may issue such person a registration, but may authorize the person to work as a pharmacy technician provided that person adheres to certain terms and conditions imposed by the board. The board shall place on the employment disqualification list the name of an applicant who the board has refused to issue a certificate of registration as a pharmacy technician, or the name of a person who the board has issued a certificate of registration as a pharmacy technician but has authorized to work under certain terms and conditions. The board shall notify the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.**

3. If an applicant has submitted the required fee and an application for registration to the board of pharmacy, the applicant for registration as a pharmacy technician may assist a licensed pharmacist in the practice of pharmacy as defined in this chapter for a period of up to ninety days prior to the issuance of a certificate of registration. The applicant shall keep a copy of the submitted application on the premises where the applicant is employed. **When the board**

refuses to issue a certificate of registration as a pharmacy technician to an applicant, the applicant shall immediately cease assisting a licensed pharmacist in the practice of pharmacy.

[3.] **4.** A certificate of registration issued by the board shall be conspicuously displayed in the pharmacy or place of business where the registrant is employed.

[4.] **5.** Every pharmacy technician who desires to continue to be registered as provided in this section shall, within thirty days before the registration expiration date, file an application for the renewal, accompanied by the fee prescribed by the board. No registration as provided in this section shall be valid if the registration has expired and has not been renewed as provided in this subsection.

[5.] **6.** The board shall maintain an employment disqualification list [of the names of all pharmacy technicians who have been adjudicated and found guilty, or have entered a plea of guilty or nolo contendere to violation of any state, territory or federal drug law, been found guilty, pled guilty or nolo contendere to any felony or have violated any provision of subdivision (2), (3), (4), (6), (7), (11), (12) or (15) of subsection 2 of section 338.055]. **No person whose name appears on the employment disqualification list shall work as a pharmacy technician, except as otherwise authorized by the board. The board may authorize a person whose name appears on the employment disqualification list to work or continue to work as a pharmacy technician provided the person adheres to certain terms and conditions imposed by the board.**

7. The board may place on the employment disqualification list the name of a pharmacy technician who has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, to a violation of any state, territory or federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055.

[6.] **8.** After an investigation and a determination has been made to place a person's name on the employment disqualification list, the board shall notify such person in writing mailed to the person's last known address that:

(1) An allegation has been made against the person, the substance of the allegation and that an investigation has been conducted which tends to substantiate the allegation;

(2) Such person's name [will be included] **has been added** in the employment disqualification list of the board;

(3) The consequences to the person of being listed and the length of time the person's name will be on the list; and

(4) The person's right[s and the procedure to challenge the inclusion of the person's name on the disqualification list] **to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.**

[7.] **9.** [If no reply has been received by the board within thirty days after the board mailed the notice, the board may include the name of such person on such disqualification list.] The length of time a person's name shall remain on the disqualification list shall be determined by the board. [The board may, also, provide for alternative sanctions, including, but not limited to, conditional employment based on a requirement that the person submit certain documentation within a certain period of time. Any person who receives notice that the board intends to place the person's name on the employment disqualification list may file an appeal with the administrative hearing commission as provided in chapter 621, RSMo.]

[8.] **10.** No hospital or licensed pharmacy shall knowingly employ any person whose name appears on the employee disqualification list, **except that a hospital or licensed pharmacy may employ a person whose name appears on the employment disqualification list but the board has authorized to work under certain terms and conditions. Any hospital or licensed pharmacy shall report to the board any final disciplinary action taken against a pharmacy technician or the voluntary resignation of a pharmacy technician against whom any complaints or reports have been made which might have led to final disciplinary action that can be a cause of action for discipline by the board as provided for in**

subsection 2 of section 338.055. Compliance with the foregoing sentence may be interposed as an affirmative defense by the employer. **Any hospital or licensed pharmacy which reports to the board in good faith shall not be liable for civil damages.**

338.055. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, GROUNDS FOR — EXPEDITED PROCEDURE — ADDITIONAL DISCIPLINE AUTHORIZED, WHEN. — 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his **or her** right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his **or her** certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) [Incompetency] **Incompetence**, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;

(8) **Denial of licensure to an applicant or** disciplinary action against **an applicant or** the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country **whether or not voluntarily agreed to by the licensee or applicant, including but not limited to, surrender of the license** upon grounds for which [revocation or suspension] **denial or discipline** is authorized in this state;

(9) A person is finally adjudged incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice under this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) The intentional act of substituting or otherwise changing the content, formula or brand of any drug prescribed by written or oral prescription without prior written or oral approval from the prescriber for the respective change in each prescription; provided, however, that nothing contained herein shall prohibit a pharmacist from substituting or changing the brand of any drug as provided under section 338.056, and any such substituting or changing of the brand of any drug as provided for in section 338.056 shall not be deemed unprofessional or dishonorable conduct unless a violation of section 338.056 occurs;

(17) Personal use or consumption of any controlled substance unless it is prescribed, dispensed, or administered by a health care provider who is authorized by law to do so.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit. The board may impose additional discipline on a licensee, registrant, or permittee found to have violated any disciplinary terms previously imposed under this section or by agreement. The additional discipline may include, singly or in combination, censure, placing the licensee, registrant, or permittee named in the complaint on additional probation on such terms and conditions as the board deems appropriate, which additional probation shall not exceed five years, or suspension for a period not to exceed three years, or revocation of the license, certificate, or permit.

4. If the board concludes that a [pharmacist] **licensee or registrant** has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which constitutes a clear and present danger to the public health and safety, the board may file a complaint before the administrative hearing commission requesting an expedited hearing and specifying the activities which give rise to the danger and the nature of the proposed restriction or suspension of the [pharmacist's] **licensee's or registrant's** license. Within fifteen days after service of the complaint on the [pharmacist] **licensee or registrant**, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the [pharmacist] **licensee or registrant** appear to constitute a clear and present danger to the public health and safety which justify that the [pharmacist's] **licensee's or registrant's** license **or registration** be immediately restricted or suspended. The burden of proving that **the actions of a [pharmacist is] licensee or registrant constitute** a clear and present danger to the public health and safety shall be upon the state board of pharmacy. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend the [pharmacist's] **licensee's or registrant's** license, such temporary authority of the board shall become final authority if there is no request by the [pharmacist] **licensee or registrant** for a full hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the [pharmacist] **licensee or registrant** named in the complaint, set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint filed by the board.

6. If the administrative hearing commission dismisses the action filed by the board pursuant to subsection 4 of this section, such dismissal shall not bar the board from initiating a subsequent action on the same grounds.

338.065. DISCIPLINARY HEARINGS — GROUNDS FOR DISCIPLINE. — 1. [After August 28, 1990,] At such time as the final trial proceedings are concluded whereby a licensee or registrant, **or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license**, has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony prosecution pursuant to the laws of the state of Missouri, the laws of any other state, territory, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of a licensee, **permittee**, or registrant pursuant to this chapter or any felony offense, an essential element of which is fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, the board of pharmacy may hold a disciplinary hearing to singly or in combination censure or place the licensee, **permittee**, or registrant named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, registration or permit.

2. Anyone who has been revoked or denied a license, permit or certificate to practice in another state may automatically be denied a license or permit to practice in this state. However, the board of pharmacy may establish other qualifications by which a person may ultimately be qualified and licensed to practice in Missouri.

338.145. BOARD PRESIDENT MAY ADMINISTER OATHS AND ISSUE SUBPOENAS — ENFORCEMENT OF SUBPOENAS. — 1. The president of the board may, upon majority vote of the board, administer oaths, issue subpoenas duces tecum, and require production of documents and records from any person or entity not licensed by the board when such documents and records are not otherwise available to the board pursuant to the board's inspection authority granted in sections 338.100 and 338.150. Subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The board may enforce its subpoenas duces tecum by applying to the circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county where the records reside or may be found, for an order upon any person who shall fail to obey a subpoena duces tecum to show cause why such subpoena duces tecum should not be enforced, which such order and a copy of the application therefore shall be served upon the person in the same manner as a summons in a civil action. If the circuit court shall, after a hearing, determine that the subpoena duces tecum should be sustained and enforced, such court shall proceed to enforce the subpoena duces tecum in the same manner as though the subpoena had been issued in a civil case in the circuit court.

338.155. IMMUNITY FROM CIVIL LIABILITY, WHEN. — 1. Any person who in good faith and without malice reports, provides information, or cooperates in any manner with the board, or assists the board in any manner, including, but not limited to, any applicant or licensee, whether or not the applicant or licensee is the subject of an investigation, record custodians, consultants, attorneys, board members, agents, employees, staff or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the board pursuant to the provisions of this chapter shall not be subject to an action for civil damages as a result of providing such information and cooperating with the board.

2. No physician or other authorized prescriber who, in good faith, cooperates with the board by writing a prescription or drug order at the request of the board pursuant to a routine inspection or a lawful investigation, shall, by virtue of that cooperation, be in violation of this chapter or any drug laws of this state and shall be acting as an agent of the state and, as such, shall have sovereign immunity for those actions.

3. No licensee, registrant, permit holder, or other individual or entity subject to the board's jurisdiction who, in good faith, fills a prescription presented by the board as part of an inspection or investigation shall, by virtue of that act, be in violation of this chapter or the drug laws of this state, provided the prescription is otherwise prepared and dispensed in a lawful manner.

338.220. OPERATION OF PHARMACY WITHOUT PERMIT OR LICENSE UNLAWFUL — APPLICATION FOR PERMIT, CLASSIFICATIONS, FEE — DURATION OF PERMIT. — 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy, as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. The following classes of pharmacy permits or licenses are hereby established:

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital outpatient pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: [Home health care] **Nonsterile compounding**;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;
- (9) Class I: Consultant services;
- (10) Class J: Shared service;
- (11) Class K: Internet.**

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

345.015. DEFINITIONS. — As used in sections 345.010 to 345.080, the following terms mean:

(1) "Audiologist", a person who is licensed as an audiologist pursuant to sections 345.010 to 345.080 to practice audiology;

(2) "Audiology aide", a person who is registered as an audiology aide by the board, who does not act independently but works under the direction and supervision of a licensed audiologist. Such person assists the audiologist with activities which require an understanding of audiology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

- (a) Be at least eighteen years of age;
 - (b) Furnish evidence of the person's educational qualifications which shall be at a minimum:
 - a. Certification of graduation from an accredited high school or its equivalent; and
 - b. On-the-job training;
-

(c) Be employed in a setting in which direct and indirect supervision are provided on a regular and systematic basis by a licensed audiologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(3) "Board", the state board of registration for the healing arts;

(4) "Clinical fellowship", the supervised professional employment period following completion of the academic and practicum requirements of an accredited training program as defined in sections 345.010 to 345.080;

(5) "Commission", the advisory commission for speech-language pathologists and audiologists;

(6) "Hearing instrument" or "hearing aid", any wearable device or instrument designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including ear molds, but excluding batteries, cords, receivers and repairs;

(7) "Person", any individual, organization, or corporate body, except that only individuals may be licensed pursuant to sections 345.010 to 345.080;

(8) "Practice of audiology":

(a) The application of accepted audiologic principles, methods and procedures for the measurement, testing, interpretation, appraisal and prediction related to disorders of the auditory system, balance system or related structures and systems;

(b) Provides consultation, counseling to the patient, client, student, their family or interested parties;

(c) Provides academic, social and medical referrals when appropriate;

(d) Provides for establishing goals, implementing strategies, methods and techniques, for habilitation, rehabilitation or aural rehabilitation, related to disorders of the auditory system, balance system or related structures and systems;

(e) Provides for involvement in related research, teaching or public education;

(f) Provides for rendering of services or participates in the planning, directing or conducting of programs which are designed to modify audition, communicative, balance or cognitive disorder, which may involve speech and language or education issues;

(g) Provides and interprets behavioral and neurophysiologic measurements of auditory balance, cognitive processing and related functions, including intraoperative monitoring;

(h) Provides involvement in any tasks, procedures, acts or practices that are necessary for evaluation of audition, hearing, training in the use of amplification or assistive listening devices;

(i) Provides selection and assessment of hearing instruments;

(j) Provides for taking impressions of the ear, making custom ear molds, ear plugs, swim molds and industrial noise protectors;

(k) Provides assessment of external ear and cerumen management;

(l) Provides advising, fitting, mapping assessment of implantable devices such as cochlear or auditory brain stem devices;

(m) Provides information in noise control and hearing conservation including education, equipment selection, equipment calibration, site evaluation and employee evaluation;

(n) Provides performing basic speech-language screening test;

(o) Provides involvement in social aspects of communication, including challenging behavior and ineffective social skills, lack of communication opportunities;

(p) Provides support and training of family members and other communication partners for the individual with auditory balance, cognitive and communication disorders;

(q) Provides aural rehabilitation and related services to individuals with hearing loss and their families;

(r) Evaluates, collaborates and manages audition problems in the assessment of the central auditory processing disorders and providing intervention for individuals with central auditory processing disorders;

(s) Develops and manages academic and clinical problems in communication sciences and disorders;

(t) Conducts, disseminates and applies research in communication sciences and disorders;

(9) "Practice of speech-language pathology":

(a) Provides screening, identification, assessment, diagnosis, treatment, intervention, including but not limited to, prevention, restoration, amelioration and compensation, and follow-up services for disorders of:

a. Speech: articulation, fluency, voice, including respiration, phonation and resonance;

b. Language, involving the parameters of phonology, morphology, syntax, semantics and pragmatic; and including disorders of receptive and expressive communication in oral, written, graphic and manual modalities;

c. Oral, pharyngeal, cervical esophageal and related functions, such as, dysphagia, including disorders of swallowing and oral functions for feeding; orofacial myofunctional disorders;

d. Cognitive aspects of communication, including communication disability and other functional disabilities associated with cognitive impairment;

e. Social aspects of communication, including challenging behavior, ineffective social skills, lack of communication opportunities;

(b) Provides consultation and counseling and makes referrals when appropriate;

(c) Trains and supports family members and other communication partners of individuals with speech, voice, language, communication and swallowing disabilities;

(d) Develops and establishes effective augmentative and alternative communication techniques and strategies, including selecting, prescribing and dispensing of argumentative aids and devices; and the training of individuals, their families and other communication partners in their use;

(e) Selects, fits and establishes effective use of appropriate prosthetic/adaptive devices for speaking and swallowing, such as tracheoesophageal valves, electrolarynges, speaking valves;

(f) Uses instrumental technology to diagnose and treat disorders of communication and swallowing, such as videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;

(g) Provides aural rehabilitative and related counseling services to individuals with hearing loss and to their families;

(h) Collaborates in the assessment of central auditory processing disorders in cases in which there is evidence of speech, language or other cognitive communication disorders; provides intervention for individuals with central auditory processing disorders;

(i) Conducts pure-tone air conduction hearing screening and screening tympanometry for the purpose of the initial identification or referral;

(j) Enhances speech and language proficiency and communication effectiveness, including but not limited to, accent reduction, collaboration with teachers of English as a second language and improvement of voice, performance and singing;

(k) Trains and supervises support personnel;

(l) Develops and manages academic and clinical programs in communication sciences and disorders;

(m) Conducts, disseminates and applies research in communication sciences and disorders;

(n) Measures outcomes of treatment and conducts continuous evaluation of the effectiveness of practices and programs to improve and maintain quality of services;

(10) "Speech-language pathologist", a person who is licensed as a speech-language pathologist pursuant to sections 345.010 to 345.080; who engages in the practice of speech-language pathology as defined in sections 345.010 to 345.080;

(11) "Speech-language pathology aide", a person who is registered as a speech-language aide by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist. Such person assists the speech-language pathologist with activities which require an understanding of speech-language pathology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

- (a) Be at least eighteen years of age;
- (b) Furnish evidence of the person's educational qualifications which shall be at a minimum:
 - a. Certification of graduation from an accredited high school or its equivalent; and
 - b. On-the-job training;
- (c) Be employed in a setting in which direct and indirect supervision is provided on a regular and systematic basis by a licensed speech-language pathologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(12) "Speech-language pathology assistant", a person who is registered as a speech-language pathology assistant by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist and whose activities require both academic and practical training in the field of speech-language pathology although less training than those established by sections 345.010 to 345.080 as necessary for licensing as a speech-language pathologist. To be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character[;] and[;]

(a)[;] furnish evidence of the person's educational qualifications which meet the following:
[a.] (a) Hold a bachelor's level degree in speech-language pathology [or an associate's degree as a speech-language pathology assistant] from an institution accredited or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association in the area of speech-language pathology; and

[b.] (b) Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of bachelor's [or associate's] level course work and clinical practicum requirements equivalent to that required or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association[;]

(b) The requirements of paragraph (a) of this subdivision shall be the minimum requirements for a speech-language pathology assistant until January 1, 2005. After January 1, 2005, to be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character and furnish evidence of the person's educational qualifications which meet the following:

a. Hold a minimum of an associate's degree as a speech-language pathology assistant from an institution accredited or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association; and

b. Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of course work and clinical practicum requirements equivalent to that required or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association;

(c) Furnish evidence of successful completion of a uniform, functionally based proficiency evaluation as determined by the board;

(d) The individuals meeting the requirements prior to January 1, 2005, may be granted continued registration from the board provided the individual meets the following:

a. Furnish evidence of employment in which direct and indirect supervision have been provided on a regular and systematic basis by a licensed speech-language pathologist; and

b. The individual is in good standing with the board with regard to practice prior to January 1, 2005].

346.135. HEARING INSTRUMENT SPECIALIST FUND, CREATED, USES — AMOUNT OF FUND TO LAPSE. — 1. All fees and charges payable pursuant to this chapter shall be collected by the division and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Hearing Instrument Specialist Fund", which is hereby created. Money in the hearing instrument specialist fund shall be available by appropriation to the council to pay its expenses in administering sections 346.010 to 346.250.

2. Money in the hearing instrument specialist fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the council's funds for the preceding fiscal year **or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the fund for the preceding fiscal year.** The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriation from the council's funds for the preceding year.

374.695. CITATION OF LAW. — Sections 374.695 to 374.789 may be known and shall be cited as the "**Professional Bail Bondsman and Surety Recovery Agent Licensure Act**".

374.700. DEFINITIONS. — As used in sections [374.700 to 374.775] **374.695 to 374.789**, the following terms shall mean:

(1) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed [under] **pursuant to** the provisions of sections [374.700 to 374.775] **374.695 to 374.789**, is employed by and is working under the authority of a licensed general bail bond agent;

(2) "**Bail bond or appearance bond**", a bond for a specified monetary amount which is executed by the defendant and a qualified licensee pursuant to sections 374.695 to 374.789, and which is issued to a court or authorized officer as security for the subsequent court appearance of the defendant upon the defendant's release from actual custody pending the appearance;

[(2)] (3) "Department", the department of insurance of the state of Missouri;

[(3)] (4) "Director", the director of the department of insurance;

[(4)] (5) "General bail bond agent", a surety agent or a property bail bondsman, as defined in sections 374.700 to 374.775, who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his working time to the bail bond business in this state;

(6) "**Insurer**", any surety insurance company which is qualified by the department to transact surety business in Missouri;

(7) "**Licensee**", a bail bond agent or a general bail bond agent;

[(5)] (8) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

[(6)] (9) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor;

[(7)] (10) "Surety recovery agent", a person not performing the duties of a sworn peace officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a bail bond agreement, excluding a bail bond agent or general bail bond agent;

(11) "Taking a bail" or "take bail", the acceptance by a person authorized to take bail of the undertaking of a sufficient surety for the appearance of the defendant according to the terms of the undertaking or that the surety will pay to the court the sum specified. Taking of bail or take bail does not include the fixing of the amount of bail and no person other than a competent court shall fix the amount of bail.

374.702. LICENSE REQUIRED, RESTRICTIONS ON PRACTICE. — 1. No person shall engage in the bail bond business as a bail bond agent or a general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

2. No judge, attorney, court official, law enforcement officer, state, county, or municipal employee who is either elected or appointed shall be licensed as a bail bond agent or a general bail bond agent.

3. A licensed bail bond agent shall not execute or issue an appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer.

4. A person licensed as an active bail bond agent shall hold the license for at least two years prior to owning or being an officer of a licensed general bail bond agent.

5. A general bail bond agent shall not engage in the bail bond business:

(1) Without having been licensed as a general bail bond agent pursuant to sections 374.695 to 374.775; or

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.695 to 374.775.

6. A general bail bond agent shall not permit any unlicensed person to solicit or engage in the bail bond business on the general bail bond agent's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license pursuant to sections 374.695 to 374.789.

7. Any person who is convicted of a violation of this section is guilty of a class A misdemeanor. For any subsequent convictions, a person who is convicted of a violation of this section is guilty of a class D felony.

374.705. DEPARTMENT OF INSURANCE, POWERS AND DUTIES — FEES, HOW DETERMINED. — 1. The department shall administer and enforce the provisions of sections [374.700 to 374.775] 374.695 to 374.789, prescribe the duties of its officers and employees with respect to sections [374.700 to 374.775] 374.695 to 374.789, and promulgate, pursuant to section 374.045 and chapter 536, RSMo, such rules and regulations within the scope and purview of the provisions of sections [374.700 to 374.775] 374.695 to 374.789 as the director considers necessary and proper for the effective administration and interpretation of the provisions of sections [374.700 to 374.775] 374.695 to 374.789.

2. The director shall set the amount of all fees authorized and required by the provisions of sections [374.700 to 374.775] 374.695 to 374.789 by rules and regulations promulgated pursuant to chapter 536, RSMo. All such fees shall be set at a level designed to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections [374.700 to 374.775] 374.695 to 374.789. However, such fees shall not exceed one hundred fifty dollars every two years for biennial licenses and renewable licenses for general bail bond agents as provided for in section 374.710.

374.710. LICENSE REQUIRED FOR BAIL BOND AGENTS, APPLICATION, QUALIFICATIONS — EXCEPTIONS. — 1. Except as otherwise provided in sections [374.700 to 374.775] **374.695 to 374.775**, no person or other entity shall practice as a bail bond agent or general bail bond agent, as defined in section 374.700, in Missouri unless and until the department has issued to him or her a license, to be renewed [each year] **every two years** as hereinafter provided, to practice as a bail bond agent or general bail bond agent.

2. **An applicant for a bail bond and general bail bond agent license shall submit with the application proof that he or she has received twenty-four hours of initial basic training in areas of instruction in subjects determined by the director deemed appropriate to professionals in the bail bonds profession. Bail bond agents and general bail bond agents who are licensed at the date which this act becomes law shall be exempt from such twenty-four hours of initial basic training.**

3. In addition to the twenty-four hours of initial basic training to become a bail bond agent or general bail bond agent, there shall be eight hours of biennial continuing education for all bail bond agents and general bail bond agents to maintain their state license. The director shall determine said appropriate areas of instruction for said biennial continuing education. The director shall determine which institutions, organizations, associations, and individuals shall be eligible to provide the initial basic training and the biennial continuing education instruction. The department may allow state institutions, organizations, associations, or individuals to provide courses for the initial basic training and the biennial continuing education training. The cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty dollars for biennial continuing education.

4. Upon completion of said basic training or biennial continuing education and the licensee meeting the other requirements as provided under sections 374.695 to 374.789, the director shall issue a two-year license for the bail bond agent or general bail bond agent for a fee not to exceed one hundred fifty dollars.

5. Nothing in sections [374.700 to 374.775] **374.695 to 374.775** shall be construed to prohibit any person from posting or otherwise providing a bail bond in connection with any legal proceeding, provided that such person receives no fee, remuneration or consideration therefor.

374.715. APPLICATION, FORM, QUALIFICATIONS, FEE — MONETARY ASSIGNMENT REQUIRED, AMOUNT, EFFECTIVE WHEN. — 1. Applications for examination and licensure as a bail bond agent or general bail bond agent shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States, is at least twenty-one years of age, **has a high school diploma or general education development certificate (GED)**, is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule. Each application shall be accompanied by the examination and application fee set by the department. **Individuals currently employed as bail bond agents and general bail bond agents shall not be required to meet the education requirements needed for licensure pursuant to this section.**

2. In addition, each applicant for licensure as a general bail bond agent shall furnish proof satisfactory to the department that the applicant[,] or, if the applicant is a corporation [or partnership], that each officer [or partner] thereof has completed at least two years as a bail bond agent[, as defined in sections 374.700 to 374.775], and that the applicant possesses liquid assets of at least ten thousand dollars, along with a duly executed assignment of ten thousand dollars to the state of Missouri[, which]. **The assignment shall become effective upon the applicant's violating any provision of sections [374.700 to 374.775] 374.695 to 374.789.** The assignment required by this section shall be in the form[,] and executed in the manner[,] prescribed by the department. **The director may require by regulation conditions by which additional assignments of assets of the general bail bond agent may occur when the circumstances**

of the business of the general bail bond agent warrants additional funds. However, such additional funds shall not exceed twenty-five thousand dollars.

374.716. ACCOUNTING REQUIRED, WHEN — RECORDS SUBMITTED TO DIRECTOR — BAIL CONTRACT PROVIDED TO PRINCIPAL. — 1. Every bail bond agent shall account for each power of attorney assigned by the general bail bond agent on a weekly basis and remit all sums collected and owed to the general bail bond agent pursuant to his or her written contract. The general bail bond agent shall maintain the weekly accounting and remittance records for a period of three years. Such records shall be subject to inspection by the director or his or her designee during regular business hours or at other reasonable times.

2. For every bond written in this state, the licensee shall provide to the principal a copy of the bail contract.

374.717. PROHIBITED ACTS. — No insurer or licensee, court, or law enforcement officer shall:

(1) Pay a fee or rebate or give or promise anything of value in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond to:

(a) A jailer, police officer, peace officer, committing judge, or any other person who has power to arrest or to hold in custody any person; or

(b) Any public official or public employee;

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(3) Pay a fee or rebate or give anything of value to the principal or anyone on the principal's behalf;

(4) Accept anything of value from a principal except the premium and expenses incurred, provided that the licensee shall be permitted to accept collateral security of other indemnity from the principal in accordance with the provisions of section 374.719.

374.719. COLLATERAL SECURITY ACCEPTED, WHEN — RECEIPT REQUIRED — USED TO REIMBURSE COSTS, WHEN — RECORDS TO BE RETAINED. — 1. A licensee may accept collateral security from the principal in a fiduciary capacity, which collateral shall be returned upon final termination of liability on the bond. When a licensee accepts collateral, the licensee shall provide a prenumbered written receipt, which shall include a detailed account of the collateral received by the licensee. The acceptance of collateral security by a bail bond agent shall be reported to the general bail bond agent.

2. The collateral security required by the licensee shall be reasonable in relation to the amount of the bond.

3. If a failure to appear, absconding or attempting to abscond, or a judgment of forfeiture on the bond has occurred, the collateral security may be used to reimburse the licensee for any costs and expenses incurred associated with the forfeiture.

4. The general bail bond agent shall retain records of the acceptance, return, or judgment of forfeiture resulting in the use of the collateral to reimburse the licensee for a period of three years.

374.730. LICENSE, BIENNIAL RENEWAL, FEE. — All licenses issued to bail bond agents and general bail bond agents under the provisions of sections 374.700 to 374.775 shall be renewed [annually] **biennially**, which renewal shall be in the form and manner prescribed by the department and shall be accompanied by the renewal fee set by the department.

374.735. EXAMINATION NOT REQUIRED, WHEN — FEE — RECIPROCAL CONTRACTS — COMPLETION OF EDUCATIONAL REQUIREMENTS REQUIRED. — 1. The department may, in

its discretion, grant a license without requiring an examination to a bail bond agent who has been licensed in another state immediately preceding his **or her** applying to the department, if the department is satisfied by proof adduced by the applicant that [his]:

(1) The qualifications **of the other state** are at least equivalent to the requirements for initial licensure as a bail bond agent in [Missouri under] **this state pursuant to** the provisions of sections [374.700 to 374.775] **374.695 to 374.775, provided that the other state licenses Missouri residents in the same manner; and**

(2) **The applicant has no suspensions or revocations of a license to engage in the bail bond or fugitive recovery business in any jurisdiction.**

2. Every applicant for a license pursuant to this section, upon showing the necessary qualifications as provided in this section, shall be required to pay the same fee as the fee required to be paid by resident applicants.

3. Within the limits provided in this section, the department may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed bail bond agents from Missouri in other states.

4. All applicants applying for licenses in this state after the enactment of said act shall complete the education requirement as stated in section 374.710. If the bail bond agent or general bail bond agent has been licensed in another state and has a license in Missouri at the time said act becomes law, said individual shall not be required to complete the twenty-four hours of initial basic training.

374.740. NONRESIDENT LICENSE REQUIREMENTS. — Any person applying to be licensed as a nonresident [bail bond agent or nonresident] general bail bond agent who has been licensed in another state shall devote fifty percent of his **or her** working time in the state of Missouri and shall file proof with the director of insurance as to his **or her** compliance, and accompany his **or her** application with the fees set by the [board] **director by regulation** and, if applying for a nonresident general bail bond agent's license, with a duly executed assignment of twenty-five thousand dollars to the state of Missouri, which assignment shall become effective upon the applicant's violating any provision of sections [374.700 to 374.775] **374.695 to 374.789**. Failure to comply with this section will result in revocation of the nonresidence license. The assignment required by this section shall be in the form and executed in the manner prescribed by the department. All licenses issued [under] **pursuant to** this section shall be subject to the same renewal requirements set for other licenses issued [under] **pursuant to** sections [374.700 to 374.775] **374.695 to 374.789**.

374.755. COMPLAINT BY DEPARTMENT, PROCEDURE — GROUNDS — DISCIPLINARY ACTION — ALTERNATE PROCEDURE — ADDITIONAL REMEDY. — 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections [374.700 to 374.775] **374.695 to 374.775** or any person who has failed to renew or has surrendered his **or her** license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of the profession licensed under sections [374.700 to 374.775] **374.695 to 374.775;**

(2) [Having entered a plea of guilty or having been found guilty of a felony] **Final adjudication or a plea of guilty or nolo contendere within the past fifteen years in a criminal prosecution under any state or federal law for a felony or a crime involving moral turpitude whether or not a sentence is imposed, prior to issuance of license date;**

(3) Use of fraud, deception, misrepresentation or bribery in securing any license [issued pursuant to sections 374.700 to 374.775] or in obtaining permission to take any examination [given or] required pursuant to sections [374.700 to 374.775] **374.695 to 374.775;**

(4) Obtaining or attempting to obtain any compensation as a member of the profession licensed by sections [374.700 to 374.775] **374.695 to 374.775** by means of fraud, deception or misrepresentation;

(5) **Misappropriation of the premium, collateral, or other things of value given to a bail bond agent or a general bail bond agent for the taking of bail**, incompetency, misconduct, gross negligence, fraud, or misrepresentation [or dishonesty] in the performance of the functions or duties of the profession licensed or regulated by sections [374.700 to 374.775] **374.695 to 374.775**;

(6) Violation of[, or assisting or enabling any other person to violate, any provision of sections 374.700 to 374.775 or of any lawful rule or regulation promulgated pursuant to sections 374.700 to 374.775] **any provision of or any obligation imposed by the laws of this state, department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations, or subpoenas**;

(7) Transferring a license or permitting another person to use a license of the licensee;

(8) Disciplinary action against the holder of a license or other right to practice the profession regulated by sections [374.700 to 374.775] **374.695 to 374.789** granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice the profession licensed or regulated by sections [374.700 to 374.775] **374.695 to 374.789** who is not currently licensed and eligible to practice [under] **pursuant to** sections [374.700 to 374.775] **374.695 to 374.789**;

(11) [Paying a fee or rebate, or giving or promising anything of value, to a jailer, policeman, peace officer, judge or any other person who has the power to arrest or to hold another person in custody, or to any public official or employee, in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or estreatment thereof] **Acting in the capacity of an attorney at a trial or hearing of a person for whom the attorney is acting as surety**;

(12) [Paying a fee or rebate, or giving anything of value to an attorney in bail bond matters, except in defense of any action on a bond];

(13) Paying a fee or rebate, or giving or promising anything of value, to the principal or anyone in his behalf;

(14) Participating in the capacity of an attorney at a trial or hearing of one on whose bond he is surety] **Failing to provide a copy of the bail contract, renumbered written receipt for acceptance of money, or other collateral for the taking of bail to the principal, if requested by any person who is a party to the bail contract, or any person providing funds or collateral for bail on the principal's behalf.**

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the [department] **director** may [do any or all of the following:

(1) Censure the person involved;

(2) Place the person involved on probation on such terms and conditions as the department deems appropriate for a period not to exceed ten years;

(3) Suspend, for a period not to exceed three years, the license of the person involved;

(4) Revoke the license of the person involved] **suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.**

3. **In lieu of filing a complaint at the administrative hearing commission, the director and the bail bond agent or general bail bond agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.**

4. **In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of competent jurisdiction pursuant to the**

provisions of section 374.046 whenever it appears that any person is acting as a bail bond agent or general bail bond agent without a license or violating any other provisions of sections 374.695 to 374.789.

374.757. NOTIFICATION BY AGENT OF INTENTION TO APPREHEND — LOCAL LAW ENFORCEMENT MAY ACCOMPANY AGENT — VIOLATIONS, PENALTIES. — 1. Any agent licensed by sections [374.700 to 374.775] **374.695 to 374.775** who intends to apprehend any person in this state shall inform law enforcement authorities in the city or county in which such agent intends such apprehension, before attempting such apprehension. Such agent shall present to the local law enforcement authorities a certified copy of the bond and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the agent. Failure of any agent to whom this section applies to comply with the provisions of this section shall be a class A misdemeanor for the first violation and a class D felony for subsequent violations; and shall also be a violation of section 374.755 and may in addition be punished pursuant to that section.

2. The surety recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law enforcement agency is a class D felony.

374.759. ACCESS TO COURT RECORDS, WHEN — DEFENDANT ACCESS TO BAIL BOND AGENT, HOW — AGENTS QUALIFIED IN ALL JURISDICTIONS IN THE STATE. — 1. Any bail bond agent licensed in the state of Missouri shall have access to all publicly available court records of the defendant by available means to make a realistic assessment of defendant's probability of attending all court dates as set in his or her charges relating to bond request.

2. Any defendant shall have free access to any bail bond agent via one phone call so long as the call is made to a local phone number. All other numbers may be available as a collect call to any nonlocal number.

3. All Missouri licensed bail bond agents or licensed general agents shall be qualified, without further requirements, in all jurisdictions of this state, as provided in rules promulgated by the supreme court of Missouri and not by any circuit court rule.

374.763. COLLECTION FROM SURETY AFTER FORFEITURE — LIST OF QUALIFIED BAIL BOND AGENTS TO BE FURNISHED MONTHLY TO CIRCUIT COURTS. — 1. If any final judgment ordering forfeiture of a defendant's bond is not paid within [the] a **six-month** period of time [ordered by the court], the court shall **extend the judgment date or** notify the department of the failure to satisfy such judgment. The director shall draw upon the assets of the surety, remit the sum to the court, and obtain a receipt of such sum from the court. The director may take action as provided by section 374.755 [or 374.430], regarding the license of the surety and any bail bond agents writing upon the surety's liability.

2. The department shall furnish to the presiding judge of each circuit court of this state, on at least a monthly basis, a list of all duly licensed and qualified bail bond agents and general bail bond agents whose licenses are not subject to pending suspension or revocation proceedings, and who are not subject to unsatisfied bond forfeiture judgments. In lieu of such list, the department may provide this information to each presiding judge in an electronic format.

3. **All duly licensed and qualified bail bond agents and general bail bond agents shall be qualified, without further requirement, to write bail upon a surety's liability in all courts of this state as provided in rules promulgated by the supreme court of Missouri and not by any circuit court rule.**

374.764. ALLEGED VIOLATIONS AND COMPLAINTS, PROCEDURE. — 1. The director shall examine and inquire into all alleged violations or complaints filed with the department of insurance of the bail bond law of the state, and inquire into and investigate the bail bond business transacted in the state by any bail bond agent, general bail bond agent, or surety recovery agent.

2. The director or any of his or her duly appointed agents may compel the attendance before him or her, and may examine, under oath, the directors, officers, bail bond agents, general bail bond agents, surety recovery agents, employees, or any other person in reference to the condition, affairs, management of the bail bond or surety recovery business, or any matters relating thereto. He or she may administer oaths or affirmations and shall have power to summon and compel the attendance of witnesses and to require and compel the production of records, books, papers, contracts, or other documents if necessary.

3. The director may make and conduct the investigation in person or the director may appoint one or more persons to make and conduct the investigation. If made by a person other than the director, the person duly appointed by the director shall have the same powers as granted to the director pursuant to this section. A certificate of appointment under the official seal of the director shall be sufficient authority and evidence thereof for the person to act. For the purpose of making the investigations, or having the same made, the director may employ the necessary clerical, actuarial, and other assistance.

374.783. SURETY RECOVERY AGENTS, LICENSE REQUIRED — DIRECTOR TO LICENSE, POWERS. — 1. No person shall hold himself or herself out as being a surety recovery agent in this state, unless such person is licensed in accordance with the provisions of sections 374.783 to 374.789. Licensed bail bond agents and general bail bond agents may perform fugitive recovery without being licensed as a surety recovery agent.

2. The director shall have authority to license all surety recovery agents in this state. The director shall have control and supervision over the licensing of such agents and the enforcement of the terms and provisions of sections 374.783 to 374.789.

3. The director shall have the power to:

(1) Set and determine the amount of the fees authorized and required pursuant to sections 374.783 to 374.789. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering sections 374.783 to 374.789. However, such fees shall not exceed one hundred fifty dollars for a two-year license; and

(2) Determine the sufficient qualifications of applicants for a license.

4. The director shall license for a period of two years all surety recovery agents in this state who meet the requirements of sections 374.783 to 374.789.

374.784. APPLICATION FOR LICENSURE, CONTENTS, QUALIFICATIONS — REFUSAL TO ISSUE LICENSE, WHEN. — 1. Applications for examination and licensure as a surety recovery agent shall be submitted on forms prescribed by the department and shall contain such information as the department requires, along with a copy of the front and back of a photographic identification card.

2. Each application shall be accompanied by proof satisfactory to the director that the applicant is a citizen of the United States, is at least twenty-one years of age, and has a high school diploma or a general educational development certificate (GED). An applicant shall furnish evidence of such person's qualifications by completing an approved surety recovery agent course with at least twenty-four hours of initial minimum training. The director shall determine which institutions, organizations, associations, and individuals shall be eligible to provide said training. Said instructions and fees associated therewith

shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

3. In addition to said twenty-four hours of initial minimum training, licensees shall be required to receive eight hours of biennial continuing education of which said instructions and fees shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

4. Applicants for surety recovery agents licensing shall be exempt from said requirements of the twenty-four hours of initial minimum training if applicants provide proof of prior training as a law enforcement officer with at least two years of such service within the ten years prior to the application being submitted to the department.

5. The director may refuse to issue any license pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The director shall notify the applicant in writing of the reason or reasons for refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission to appeal the refusal as provided by chapter 621, RSMo.

374.785. LICENSE ISSUED, WHEN — RECIPROCITY — APPREHENSION OF DEFENDANT, PERMITTED WHERE — FEE. — 1. The director shall issue a license for a period of two years to any surety recovery agent who is licensed in another jurisdiction and who:

(1) Has no violations, suspensions, or revocations of a license to engage in fugitive recovery in any jurisdiction; and

(2) Is licensed in a jurisdiction whose requirements are substantially equal to or greater than the requirements for a surety recovery agent license in Missouri at the time the applicant applies for a license.

2. Any surety recovery agent who is licensed in another state shall also be subject to the same training requirements as in-state surety recovery agents prescribe to under section 374.784.

3. For the purpose of surrender of the defendant, a surety recovery agent may apprehend the defendant anywhere within the state of Missouri before or after the forfeiture of the undertaking without personal liability for false imprisonment or may empower any surety recovery agent to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees.

4. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in this section, shall be required to pay the same fee as required of resident applicants. Within the limits provided in this section, the director may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed surety recovery agents from Missouri in other states.

374.786. RENEWAL, PROCEDURE. — 1. Every person licensed pursuant to sections 374.783 to 374.789 shall, before the license renewal date, apply to the director for renewal for the ensuing licensing period. The application shall be made on a form furnished to the applicant and shall state the applicant's full name, the applicant's business address, the address at which the applicant resides, the date the applicant first received a license, and the applicant's surety recovery agent identification number, if any.

2. A renewal form shall be mailed to each person licensed in this state at the person's last known address. The failure to mail the renewal form or the failure of a person to receive it does not relieve any person of the duty to be licensed and to pay the license fee required nor exempt such person from the penalties provided for failure to be licensed.

3. Each applicant for renewal shall accompany such application with a renewal fee to be paid to the department for the licensing period for which renewal is sought.

4. The director may refuse to renew any license required pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The

director shall notify the applicant in writing of the reasons for refusal to renew and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

374.787. COMPLAINT PROCEDURE. — 1. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any surety recovery agent or any person who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) Violation of any provisions of, or any obligations imposed by, the laws of this state, the department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules, or regulations;

(2) Final adjudication or a plea of guilty or nolo contendere in a criminal prosecution under state or federal law for a felony or a crime involving moral turpitude, whether or not a sentence is imposed;

(3) Using fraud, deception, misrepresentation, or bribery in securing a license or in obtaining permission to take any examination required by sections 374.783 to 374.789;

(4) Obtaining or attempting to obtain any compensation as a surety recovery agent by means of fraud, deception, or misrepresentation;

(5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety recovery agent without a license;

(6) Incompetence, misconduct, gross negligence, fraud, or misrepresentation in the performance of the functions or duties of a surety recovery agent;

(7) Having a license revoked or suspended that was issued by another state.

2. After the filing of the complaint, the proceedings shall be conducted in accordance with the provision of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the director may suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

3. In lieu of filing a complaint with the administrative hearing commission, the director and the surety recovery agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears that any person is acting as a surety recovery agent without a license.

374.788. APPREHENSION STANDARDS FOR BREACH OF SURETY AGREEMENT OR ABSCONDING. — 1. A bail bond agent having probable grounds to believe a subject free on his or her bond has failed to appear as directed by a court, has breached the terms of the subject's surety agreement, or has taken a substantial step toward absconding, may utilize all lawful means to apprehend the subject. To surrender a subject to a court, a licensed bail bond or surety recovery agent having probable grounds to believe the subject is free on his or her bond may:

(1) Detain the subject in a lawful manner, for a reasonable time, provided that in the event travel from another state is involved, the detention period may include reasonable travel time not to exceed seventy-two hours;

(2) Transport a subject in a lawful manner from state to state and county to county to a place of authorized surrender; and

(3) Enter upon private or public property in a lawful manner to execute apprehension of a subject.

2. A surety recovery agent who apprehends a subject pursuant to the provisions of subsection 1 of this section shall surrender custody of the subject to the court of jurisdiction.

3. When a surety recovery agent is in the process of performing fugitive recovery, a photographic identification card shall be prominently displayed on his or her person.

374.789. PROHIBITED ACTS. — 1. A person is guilty of a class D felony if he or she does not hold a valid surety recovery agent license or a bail bond license and commits any of the following acts:

(1) Holds himself or herself out to be a licensed surety recovery agent within this state;

(2) Claims that he or she can render surety recovery agent services; or

(3) Engages in fugitive recovery in this state.

2. Any person who engages in fugitive recovery in this state and wrongfully causes damage to any person or property, including, but not limited to, unlawful apprehension, unlawful detainment, or assault, shall be liable for such damages and may be liable for punitive damages.

436.215. CITATION OF LAW. — Sections 436.215 to 436.272 may be cited as the "Uniform Athlete Agents Act".

436.218. DEFINITIONS. — As used in sections 436.215 to 436.272, the following terms mean:

(1) "Agency contract", an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;

(2) "Athlete agent", an individual who enters into an agency contract with a student-athlete or directly or indirectly recruits or solicits a student-athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. The term includes an individual who represents to the public that the individual is an athlete agent;

(3) "Athletic director", an individual responsible for administering the overall athletic program of an educational institution or if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate;

(4) "Contact", a direct or indirect communication between an athlete agent and a student-athlete to recruit or solicit the student-athlete to enter into an agency contract;

(5) "Director", the director of the division of professional registration;

(6) "Division", the division of professional registration;

(7) "Endorsement contract", an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;

(8) "Intercollegiate sport", a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;

(9) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity;

(10) "Professional-sports-services contract", an agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(11) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(12) "Registration", registration as an athlete agent under sections 436.215 to 436.272;

(13) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(14) "Student-athlete", an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport the individual is not a student-athlete for purposes of that sport.

436.221. DIRECTOR'S AUTHORITY. — 1. The director shall administer the provisions of sections 436.215 to 436.272.

2. By engaging in the business of an athlete agent in this state, a nonresident individual appoints the director as the individual's agent to accept service of process in any civil action related to the individual's business as an athlete agent in this state.

3. The director may subpoena witnesses, issue subpoenas duces tecum and require production of documents and records. Subpoenas including subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

4. The director may enforce its subpoenas including subpoenas duces tecum by applying to a circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county where the person resides or may be found for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which such order and a copy of the application therefore shall be served upon the person in the same manner as a summons in a civil action and if the circuit court shall after a hearing determine that the subpoena should be sustained and enforced such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

436.224. CERTIFICATE OF REGISTRATION REQUIRED — TEMPORARY LICENSE, CRITERIA. — 1. Except as otherwise provided in subsection 2 of this section, an individual may not act as an athlete agent in this state before being issued a certificate of registration under section 436.230 or 436.236.

2. An individual with a temporary license under section 436.236 may act as an athlete agent before being issued a certificate of registration for all purposes except signing an agency contract if:

(1) A student-athlete or another acting on behalf of the student-athlete initiates communication with the individual; and

(2) Within seven days after an initial act as an athlete agent, the individual submits an application to register as an athlete agent in this state.

3. An agency contract resulting from conduct in violation of this section is void. The athlete agent shall return any consideration received under the contract.

436.227. APPLICATION PROCEDURE, CONTENTS. — 1. An applicant for registration shall submit an application for registration to the director in a form prescribed by the director. The application must be in the name of an individual and signed by the applicant under penalty of perjury and must state or contain:

(1) The name of the applicant and the address of the applicant's principal place of business;

(2) The name of the applicant's business or employer, if applicable;

(3) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;

(4) A description of the applicant's:

(a) Formal training as an athlete agent;

(b) Practical experience as an athlete agent; and

(c) Educational background relating to the applicant's activities as an athlete agent;

(5) The names and addresses of three individuals not related to the applicant who are willing to serve as references;

(6) The name, sport, and last known team for each individual for whom the applicant provided services as an athlete agent during the five years next preceding the date of submission of the application;

(7) The names and addresses of all persons who are:

(a) With respect to the athlete agent's business if it is not a corporation, the partners, officers, associates, or profit-sharers; and

(b) With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation with a five percent or greater interest;

(8) Whether the applicant or any other person named under subdivision (7) of this subsection has been convicted of a crime that if committed in this state would be a felony or other crime involving moral turpitude, and a description of the crime;

(9) Whether there has been any administrative or judicial determination that the applicant or any other person named under subdivision (7) of this subsection has made a false, misleading, deceptive, or fraudulent representation;

(10) Any instance in which the prior conduct of the applicant or any other person named under subdivision (7) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

(11) Any sanction, suspension, or disciplinary action taken against the applicant or any other person named under subdivision (7) of this subsection arising out of occupational or professional conduct; and

(12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any other person named under subdivision (7) of this subsection as an athlete agent in any state.

436.230. CERTIFICATE OF REGISTRATION ISSUED, WHEN — REFUSAL TO ISSUE, WHEN.
— 1. Except as otherwise provided in subsection 2 of this section, the director shall issue a certificate of registration to an individual who complies with subsection 1 of section 436.227.

2. The director may refuse to issue a certificate of registration if the director determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to serve as an athlete agent. In making the determination, the director may consider whether the applicant has:

(1) Been convicted of a crime that if committed in this state would be a felony or other crime involving moral turpitude;

(2) Made a materially false, misleading, deceptive, or fraudulent representation as an athlete agent or in the application;

(3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) Engaged in conduct prohibited by section 436.254;

(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure in any state;

(6) Engaged in conduct or failed to engage in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic

or intercollegiate athletic event was imposed on a student-athlete or educational institution;
or

(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

3. In making a determination under subsection 3 of this section, the director shall consider:

- (1) How recently the conduct occurred;
- (2) The nature of the conduct and the context in which it occurred; and
- (3) Any other relevant conduct of the applicant.

4. An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the director. The application for renewal must be signed by the applicant under penalty of perjury under section 575.040, RSMo, and shall contain current information on all matters required in an original registration.

5. A certificate of registration or a renewal of a registration is valid for two years.

436.233. SANCTIONING OF CERTIFICATE OF REGISTRATION, WHEN — COMPLAINT PROCEDURE. — 1. The director may revoke, suspend, or refuse to renew any certificate of registration required under this chapter for one or any combination of causes stated in subsection 2 of this section. The director shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration for any one or any combination of the following causes:

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(2) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration under this chapter;

(3) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions regulated by this chapter including but not limited to the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(b) Attempting directly or indirectly by way of intimidation, coercion or deception, to obtain consultation;

(c) Failure to comply with any subpoena or subpoena duces tecum from the director;

(d) Failing to inform the director of the athlete agent's current residence and business address;

(4) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted under this chapter;

(5) Impersonation of any person holding a certificate of registration or allowing any person to use his or her certificate of registration;

(6) Violation of the drug laws or rules and regulations of this state, any other state, or the federal government;

(7) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth or other certificate or document executed in connection with the transaction;

(8) Soliciting patronage in person, by agents, by representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended in such a manner as to confuse, deceive, or mislead the public;

(9) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by a physician who is authorized by law to do so.

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met the director may singly or in combination warn, censure, or place the person named in the complaint on probation on such terms and conditions as the director deems appropriate for a period not to exceed six months, or may suspend the person's certificate of registration period not to exceed one year, or restrict or limit the person's certificate of registration for an indefinite period of time, or revoke the person's certificate of registration.

4. In any order of revocation, the director may provide that the person may not apply for reinstatement of the person's certificate of registration for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

436.236. TEMPORARY CERTIFICATE OF REGISTRATION PERMITTED, WHEN. — The director may issue a temporary certificate of registration valid for sixty days while an application for registration or renewal is pending.

436.239. APPLICATION FEE — ATHLETE AGENT FUND CREATED — RULEMAKING AUTHORITY. — 1. An application for registration or renewal of registration shall be accompanied by a fee which shall be determined by the director and established by rule. All fees payable under the provisions of this section shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Athlete Agent Fund" which is hereby established. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in the athlete agent fund shall not be transferred and placed to the credit of general revenue until the amount in the athlete agent fund at the end of the biennium exceeds two times the amount of the appropriations from such fund for the preceding fiscal year or, if the director allows renewal of registration less frequently than yearly, then three times the appropriations from such fund for the preceding fiscal year; provided that no amount from such fund may be transferred to the credit of general revenue earlier than two years following the effective date of this section. The amount if any which may be transferred to the credit of general revenue after two years following the effective date of this section is that amount in the athlete agent fund which exceeds the appropriate multiple of the appropriations from such fund for the preceding fiscal year.

2. The director may promulgate rules to authorize and file athlete agent documents as that term is defined in section 536.010, RSMo. Any rule promulgated under the authority in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

436.242. CONTRACT REQUIREMENTS AND CONTENT. — 1. An agency contract must be in a record signed by the parties.

2. An agency contract must state or contain:

(1) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(2) The name of any person not listed in the application for registration or renewal who will be compensated because the student-athlete signed the agency contract;

(3) A description of any expenses that the student-athlete agrees to reimburse;

(4) A description of the services to be provided to the student-athlete;

(5) The duration of the contract; and

(6) The date of execution.

3. An agency contract shall contain in close proximity to the signature of the student-athlete a conspicuous notice in boldface type in capital letters stating: "WARNING TO STUDENT-ATHLETE IF YOU SIGN THIS CONTRACT: (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT; (2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."

4. An agency contract that does not conform to this section is voidable by the student-athlete.

5. The athlete agent shall give a copy of the signed agency contract to the student-athlete at the time of signing.

436.245. NOTICE OF CONTRACT, WHEN. — 1. Within seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate whichever occurs first the athlete agent shall give notice in writing of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

2. Within seventy-two hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate whichever occurs first the student-athlete shall in writing inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

436.248. CANCELLATION OF CONTRACT, WHEN. — 1. A student-athlete may cancel an agency contract by giving notice in writing to the athlete agent of the cancellation within fourteen days after the contract is signed.

2. A student-athlete may not waive the right to cancel an agency contract.

3. If a student-athlete cancels an agency contract within fourteen days of signing the contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the agent to induce the student-athlete to enter into the contract.

436.251. RECORDS TO BE RETAINED. — 1. An athlete agent shall retain the following records for a period of five years:

(1) The name and address of each individual represented by the athlete agent;

(2) Any agency contract entered into by the athlete agent; and

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete.

2. Records required by subsection 1 of this section to be retained are open to inspection by the director during normal business hours.

436.254. PROHIBITED ACTS. — 1. An athlete agent may not do any of the following with the intent to induce a student-athlete to enter into an agency contract:

(1) Give any materially false or misleading information or make a materially false promise or representation;

(2) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(3) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

2. An athlete agent may not intentionally:

(1) Initiate contact with a student-athlete unless registered under sections 436.215 to 436.272;

(2) Refuse or willfully fail to retain or permit inspection of the records required by section 436.251;

(3) Violate section 436.224 by failing to register;

(4) Provide materially false or misleading information in an application for registration or renewal of registration;

(5) Predate or postdate an agency contract; or

(6) Fail to notify a student-athlete prior to the student athlete's signing an agency contract for a particular sport that the signing by the student-athlete may make the student-athlete ineligible to participate as a student-athlete in that sport.

436.257. VIOLATION, PENALTY. — The commission of any act prohibited by section 436.254 by an athlete agent is a class B misdemeanor.

436.260. EDUCATIONAL INSTITUTION CAUSE OF ACTION, WHEN, DAMAGES, ACCRUAL OF RIGHT OF ACTION. — 1. An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of sections 436.215 to 436.272. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

2. Damages of an educational institution under subsection 1 of this section include losses and expenses incurred because as a result of the activities of an athlete agent or former student-athlete the educational institution was injured by a violation of sections 436.215 to 436.272 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions.

3. A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

4. Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

5. Sections 436.215 to 436.272 do not restrict rights, remedies, or defenses of any person under law or equity.

436.263. VIOLATION, PENALTY. — Any person who violates any provisions of sections 436.215 to 436.269 is guilty of a class A misdemeanor.

436.266. UNIFORMITY CONSIDERED IN APPLYING LAW. — In applying and construing sections 436.215 to 436.272, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of sections 436.215 to 436.272 among states that enact it.

436.269. SEVERABILITY CLAUSE. — If any provision of sections 436.215 to 436.272 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 436.215 to 436.272 which can be given effect without the invalid provision or application, and to this end the provisions of sections 436.215 to 436.272 are severable.

436.272. MONEYS COLLECTED FOR CERTAIN VIOLATIONS TO BE TRANSFERRED TO GENERAL REVENUE. — Any moneys collected by the director under section 436.263 shall immediately be transferred to the department of revenue for deposit in the state treasury to the credit of general revenue.

620.127. ALL LICENSE, PERMIT OR CERTIFICATE APPLICATIONS SHALL CONTAIN THE APPLICANT'S SOCIAL SECURITY NUMBER — EXCEPTIONS. — Notwithstanding any provision of law to the contrary, every application for a license, certificate, **registration**, or permit, or renewal of a license, certificate, **registration**, or permit issued in this state shall contain the Social Security number of the applicant. **This provision shall not apply to an original application for a license, certificate, registration, or permit submitted by a citizen of a foreign country who has never been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country applying for licensure with the division of professional registration shall be required to submit his or her visa or passport identification number in lieu of the Social Security number.**

620.145. DIVISION TO MAINTAIN REGISTRY OF LICENSEES — BOARDS MAY PUBLISH, PROCEDURE. — [1.] The division of professional registration shall maintain, for each board in the division, a registry of each person holding a current license, permit or certificate issued by that board. The registry shall contain the name, Social Security number and address of each person licensed or registered together with other relevant information as determined by the board. The registry for each board shall at all times be available to the board and copies shall be supplied to the board on request. Copies of the registry, except for the registrant's Social Security number, shall be available from the division or the board to any individual who pays the reasonable copying cost. Any individual may copy the registry during regular business hours. The information in the registry shall be furnished upon request to the division of child support enforcement. Questions concerning the currency of license of any individual shall be answered, without charge, by the appropriate board. Each year each board may publish, or cause to be published, a directory containing the name and address of each person licensed or registered for the current year together with any other information the board deems necessary. Any expense incurred by the state relating to such publication shall be charged to the board. An official copy of any such publication shall be filed with the director of the department of economic development.

[2. Notwithstanding any provision of law to the contrary, each board shall require each person applying for a license, permit or certificate, or a renewal of a license, permit or certificate to furnish the board with the applicant's Social Security number.]

[374.725. COMPLIANCE REQUIRED, FOR THOSE ACTING AS BAIL BOND AGENTS PRIOR TO LICENSING REQUIREMENT, WHEN. — Any person who, on September 28, 1983, is acting in any capacity which would be classified as practicing as a bail bond agent or general bail bond

agent under the provisions of sections 374.700 to 374.775 may continue to act in such capacity without being licensed under sections 374.700 to 374.775 for a period of twelve months from September 28, 1983.]

[374.765. LICENSE REQUIREMENT VIOLATION, PENALTIES. — 1. Any person who practices as a bail bond agent or general bail bond agent, or who purports to be a bail bond agent, or general bail bond agent, as defined in section 374.700, without being duly licensed under sections 374.700 to 374.775 is:

- (1) For the first such offense, guilty of an infraction;
- (2) For the second and each subsequent offense, guilty of a class A misdemeanor.

2. Any licensed bail bond agent who knowingly violates the provisions of one or more of subdivisions (3), (4), (10), (11), (12), (13), (14), or (15) of subsection 1 of section 374.755 shall be guilty of a class B misdemeanor.]

[436.200. DEFINITIONS. — As used in this act the following terms shall mean:

(1) "Agent contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to represent him in the marketing of his athletic ability or reputation in a sport;

(2) "Athlete agent", a person that, for compensation, directly or indirectly recruits or solicits a student athlete to enter into an agent contract, financial services contract or professional sports services contract;

(3) "Financial services contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to provide financial services for the student athlete, including but not limited to the making and execution of investment and other financial decisions by the athlete agent on behalf of the student athlete;

(4) "Person", an individual, company, corporation, association, partnership or other entity;

(5) "Professional sports services contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to obtain employment for the student athlete with a professional sports team or as a professional athlete;

(6) "Student athlete", any athlete who practices for or otherwise participates in intercollegiate athletics at any college or university located within this state.]

[436.205. REGISTRATION OF ATHLETE AGENTS WITH SECRETARY OF STATE, FEE, CERTIFICATE, DURATION — ADDRESS CHANGE — PENALTY FOR NONREGISTRATION — REVOCATION AND SUSPENSION OF REGISTRATION. — 1. Each athlete agent must register biennially with the secretary of state on forms to be provided by the secretary of state and, at the same time, pay to the secretary of state a registration fee of five hundred dollars for which the secretary of state shall issue a registration certificate entitling the holder to operate as an athlete agent for a period of two years.

2. When the business address of any athlete agent operating in this state is changed, the athlete agent must notify the secretary of state within thirty days after the change of address.

3. It is unlawful for any person to operate as an athlete agent unless he is registered as provided in this section. Failure of the athlete agent to register is a class B misdemeanor.

4. The secretary of state may suspend or revoke the registration of any athlete agent for failing to comply with the provisions of this section. The suspension or revocation of any registration may be reviewed by a court of competent jurisdiction.]

[436.209. STUDENT ATHLETE CONTRACTING WITH ATHLETIC AGENT, NOTIFICATION REQUIREMENTS, PENALTIES — CONTENT OF CONTRACT, FAILURE TO COMPLY, EFFECT — AGENT LIABLE FOR DAMAGES, WHEN — RIGHT OF STUDENT TO RESCIND, PROCEDURE. —

1. A student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National

Junior College Athletic Association, and who enters into an agent contract, financial services contract or professional sports services contract with an athlete agent must provide written notification to the athletic director or the president of the college or university in which he is enrolled that he has entered into such a contract. Written notification must be given prior to practicing for or participating in any athletic event on behalf of any college or university or within seventy-two hours after entering into the contract, whichever occurs first. Failure of the student athlete to provide this notification is an infraction.

2. An athlete agent who enters into an agent contract, financial services contract or professional sports services contract with a student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National Junior College Athletic Association must provide written notification to the athletic director or the president of the college or university in which the student athlete is enrolled that the student athlete has entered into such a contract. Written notification of such a contract must be given prior to the student athlete's practicing for or participating in any athletic event on behalf of any college or university or within seventy-two hours after entering into said contract, whichever occurs first. Failure of the athlete agent to provide this notification is a class B misdemeanor.

3. An agent contract, financial services contract or professional sports services contract between a student athlete and an athlete agent must have a notice printed near the space for the student athlete's signature which must contain the following statement in ten-point boldfaced type: "WARNING: IF YOU AS A STUDENT ATHLETE SIGN THIS CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. PURSUANT TO MISSOURI LAW, YOU MUST NOTIFY THE ATHLETIC DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY IN WRITING PRIOR TO PRACTICING FOR OR PARTICIPATING IN ANY ATHLETIC EVENT ON BEHALF OF ANY COLLEGE OR UNIVERSITY OR WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO THIS CONTRACT, WHICHEVER OCCURS FIRST. FAILURE TO PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE."

4. An agent contract, financial services contract or professional sports services contract entered into between a student athlete and an athlete agent which fails to provide the notification required by this section is null, void and unenforceable.

5. Any student athlete or athlete agent who enters into an agent contract, financial services contract or professional sports services contract and fails to provide the notification required by this section, is liable to the college or university in which the student athlete is enrolled for damages that result from the student athlete's subsequent ineligibility. In addition to any damages awarded pursuant to this section, additional damages may be assessed in an amount equal to three times the value of the athletic scholarship furnished by the institution to the student athlete during the student athlete's period of eligibility.

6. Within ten days after the date on which the contractual relationship between the athlete agent and the student athlete arises or after notification of such contractual relationship is received by the athletic director or president of the college or university in which the student is enrolled, whichever occurs later, the student athlete shall have the right to rescind the contract or any contractual relationship with the athlete agent by giving notice in writing of his intent to rescind. The student athlete may not under any circumstances effect a waiver of his right to rescind, and any attempt to do so shall be null, void and unenforceable.]

[436.212. ATHLETE AGENTS PROHIBITED FROM PROVIDING FALSE INFORMATION REGARDING EMPLOYMENT — CONSIDERATION IN EXCHANGE FOR REFERRAL — INDUCEMENT TO ENTER CONTRACT — REGISTRATION — PENALTY. — 1. An athlete agent shall not publish or cause to be published false or misleading information or advertisements, nor give any false information or make false promises to a student athlete concerning employment.

2. An athlete agent shall not accept as a client a student athlete referred by an employee of or a coach for a college or university located within this state in exchange for any consideration.

3. An athlete agent shall not enter into any agreement, written or oral, by which the athlete agent offers anything of value to any employee of or a coach for a college or university located within this state in return for the referral of any student athlete clients by that employee or coach.

4. An athlete agent shall not offer anything of value to induce a student athlete to enter into an agent contract, financial services contract, professional sports services contract or other agreement by which the athlete agent will represent the student athlete. Negotiations regarding the athlete agent's fee shall not be considered an inducement.

5. A person shall not conduct business as an athlete agent if he is not registered or if his registration is suspended or revoked.

6. Violation of any provision of this section is a class B misdemeanor.]

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of sections 374.700, 374.705, 374.710, 374.715, 374.730, 374.735, 374.740, 374.755, 374.757, and 374.763, and the enactment of sections 374.695, 374.702, 374.716, 374.717, 374.719, 374.759, 374.764, 374.785, 374.786, 374.787, 374.788, and 374.789, shall become effective January 1, 2005.

Approved July 9, 2004

SB 1123 [SB 1123]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws related to Medicaid reimbursement for nursing homes.

AN ACT to amend chapter 208, RSMo, by adding thereto one new section relating to reimbursement of nursing homes, with an emergency clause.

SECTION

A. Enacting clause.

208.225. Medicaid per diem rate recalculation for nursing homes, amount.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 208, RSMo, is amended by adding thereto one new section, to be known as section 208.225, to read as follows:

208.225. MEDICAID PER DIEM RATE RECALCULATION FOR NURSING HOMES, AMOUNT.

— **1.** To implement fully the provisions of section 208.152, the division of medical services shall recalculate annually the Medicaid per diem reimbursement rates of each nursing home participating in the Medicaid program as a provider of nursing home services based on its costs reported in the Title XIX cost report filed with the division of medical services for its fiscal year preceding the two facility fiscal years preceding the effective date of the recalculated rates.

2. The recalculation of Medicaid rates to all Missouri facilities will be performed over three state fiscal years in three separate payments beginning July 1, 2004, as follows:

(1) Effective July 1, 2004, the department of social services shall use the Medicaid cost report containing adjusted costs for the facility fiscal year ending in 2001 and redetermine

the allowable per patient day costs for each facility. The department shall recalculate the class ceilings in the patient care, one hundred twenty percent of the median; ancillary, one hundred twenty percent of the median; and administration, one hundred ten percent of the median cost centers. Each facility shall receive as a rate increase one-third of the amount that is unpaid based on the recalculated cost determination;

(2) Effective July 1, 2005, the department shall perform the same calculations described in subdivision (1) of this subsection, except that the calculations will be performed using the Medicaid cost report containing adjusted costs for the facility fiscal year ending in 2002. The facility shall receive as a rate increase one-third of the amount that it is underpaid;

(3) Effective July 1, 2006, the department shall perform the same calculations described in subdivision (1) of this subsection, except that the calculations will be performed using the Medicaid cost report containing adjusted costs for the facility fiscal year ending in 2003. The facility shall receive as a rate increase one-third of the amount that it is underpaid;

(4) Effective July 1, 2007, each facility shall receive a full Medicaid rate recalculation based upon its 2004 Medicaid cost report of adjusted costs.

SECTION B. EMERGENCY CLAUSE. — Because of the need to recalculate Medicaid rates for Missouri facilities, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval or July 1, 2004, whichever later occurs.

Approved June 18, 2004

SB 1130 [SB 1130]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain regional planning commission employees to enroll in the Missouri Local Government Retirement System.

AN ACT to repeal section 251.440, RSMo, and to enact in lieu thereof two new sections relating to regional planning commissions.

SECTION

A. Enacting clause.

251.255. Regional planning commission deemed political subdivision — retirement system eligibility.

251.440. Dissolution of regional commission, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 251.440, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 251.255 and 251.440, to read as follows:

251.255. REGIONAL PLANNING COMMISSION DEEMED POLITICAL SUBDIVISION — RETIREMENT SYSTEM ELIGIBILITY. — Notwithstanding the provisions of section 70.600, RSMo, to the contrary, a regional planning commission shall be considered a political subdivision for the purposes of sections 70.600 to 70.755, RSMo, and employees of a

regional planning commission shall be eligible for membership in the Missouri local government employees' retirement system upon the regional planning commission becoming an "employer" as defined in subdivision (11) of section 70.600, RSMo.

251.440. DISSOLUTION OF REGIONAL COMMISSION, PROCEDURE. — Upon receipt of certified copies of resolutions recommending the dissolution of a regional planning commission adopted by the governing bodies of a majority of the local units in the region, including the county commission of any county, part or all of which is within the region, and upon a finding that all outstanding indebtedness of the regional planning commission has been paid, **including monies owed to any retirement plan or system in which the commission participates and has pledged to pay for the unfunded accrued liability of its past and current employees,** and all unexpended funds returned to the local units which supplied them, or that adequate provision has been made therefor, the governor shall issue a certificate of dissolution of the commission which shall thereupon cease to exist.

Approved June 24, 2004

SB 1155 [HS SCS SB 1155]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to economic development.

AN ACT to repeal sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 32.105, 32.110, 67.478, 67.481, 67.484, 67.487, 67.490, 67.493, 67.1401, 67.1461, 67.1545, 67.1706, 67.1754, 71.620, 94.270, 99.1000, 99.1018, 100.255, 100.260, 100.270, 100.281, 100.710, 135.207, 135.215, 135.530, 144.757, 144.759, 620.1039, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450, 620.1460, 620.1560, and 644.032, RSMo, and section 100.850 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 289, ninety-second general assembly, first regular session, and section 100.850 as enacted by senate committee substitute for senate bill no. 620, ninety-second general assembly, first regular session, and to enact in lieu thereof sixty-three new sections relating to economic development projects, with penalty provisions.

SECTION

- A. Enacting clause.
- 30.750. Definitions.
- 30.753. Treasurer's authority to invest in linked deposits, limitations.
- 30.756. Lending institution receiving linked deposits, requirements and limitations — false statements as to use for loan, penalty — eligible student borrowers — eligibility, student renewal loans, repayment method.
- 30.758. Loan package acceptance or rejection — loan agreement requirements — linked deposit at less than market interest rate authorized — market interest rate, when.
- 30.760. Loans to be at fixed rate of interest set by rules — records of loans to be segregated — penalty for violations — state treasurer, powers and duties.
- 30.765. State and state treasurer not liable on loans — default on a loan not to affect deposit agreement with state.
- 32.105. Definitions — tax credits may be transferred, sold or assigned, requirements.
- 32.110. Firms providing neighborhood assistance to receive tax credits.
- 67.1303. Sales tax authorized in certain cities and counties, rate — ballot, effective date — use of revenue, limitations — deposit of funds — economic development tax board required, membership, terms — board duties — annual report — repeal.
- 67.1401. Community improvement district act, definitions.
- 67.1461. Powers of district — reimbursement of municipality — limitations.

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- 67.1545. Sales and use tax authorized in certain districts — procedure to adopt, ballot language, imposition and collection by retailers — penalties for violations — deposit into trust fund, use — repeal.
- 67.1706. District to develop, operate and maintain system of interconnecting trails and parks — power to contract with other parks.
- 67.1754. Sales tax, how allocated.
- 67.2500. Establishment of a district, where — definitions (St. Charles County).
- 67.2505. Purpose of district — name — size — subdistricts permitted — procedure for establishment of a district.
- 67.2510. Alternative procedure for establishment of a district.
- 67.2515. Petition, contents, notice — hearing — district declared organized, when.
- 67.2520. Election conducted, when — sales tax vote, amount — ballot form.
- 67.2525. Board of directors, qualifications — subdivision of district, how — powers and duties of the board.
- 67.2530. Refund of district indebtedness, when, how — imposition of a sales tax authorized — deposit and use of sales tax revenue — repeal of sales tax, ballot form.
- 71.620. Imposition of tax or license fee on certain professions prohibited — imposition of tax or fee prohibited unless business office maintained — limitation on business license tax amount in certain villages.
- 94.270. Power to license, tax and regulate certain businesses and occupations — prohibition on local license fees in excess of certain amounts in certain cities (Edmundson, Woodson Terrace).
- 94.578. Sales tax authorized in certain cities (Springfield), rate, use of funds, bonds authorized — ballot, effective date — administration, deposit of revenue — use of funds upon abolishment — repeal.
- 99.1000. Definitions.
- 99.1018. Authority to be public body corporate and politic, powers — disclosure of conflicts of interest.
- 100.255. Definitions.
- 100.260. Funds established — administration, investment — no transfer to general revenue, when — increase of certain revenue calculated and allocated to Jobs Now fund.
- 100.270. Board's powers and duties — rules, authority to promulgate.
- 100.277. Employment and business opportunities required to be provided, to whom.
- 100.281. Project plan, approval procedure — board to review and grant loan, when — borrowing power — sale of bonds.
- 100.293. Citation — jobs now recommendation committee created, membership, duties — applications — preference given to certain projects — requests granted, determinations required.
- 100.710. Definitions.
- 100.850. Assessments remittal, job development assessment fee — company records available to board, when — when remitted assessment ceases — tax credit amount, cap, claiming credit — refunds.
- 100.850. Assessments remittal, job development assessment fee — company records available to board, when — when remitted assessment ceases — tax credit amount, cap, claiming credit — refunds.
- 135.155. Prohibition on certain enterprises receiving certain incentives.
- 135.207. Satellite zones may be established in certain cities or villages, requirements.
- 135.212. Additional enterprise zones to be designated — certain zones not to expire before certain date (Linn, Macon counties).
- 135.215. Real property improvements exemption from assessment and ad valorem taxes — procedure — maximum period granted — abatement or exemption ceases, when.
- 135.262. Any area meeting enterprise zone requirements shall be designated as such.
- 135.286. Revenue-producing enterprises not eligible for certain tax benefits — time period of exemptions.
- 135.530. Distressed community defined.
- 135.546. Tax credits for investing in the transportation development of a distressed community prohibited, when.
- 135.900. Definitions.
- 135.903. Rural empowerment zone criteria — application, zone created, reapplication — limitation.
- 135.910. Taxable income of certain entities exempt, when.
- 135.911. Expiration date.
- 135.1050. Definitions.
- 135.1055. Enhanced enterprise zone criteria — zone may be established in certain areas — additional criteria.
- 135.1057. Enhanced enterprise zone board required, members — terms — board actions — chair — role of board.
- 135.1060. Public hearing required, notice — petition, requirements — effective and expiration date — annual report.
- 135.1065. Improvements exempt, when — authorizing resolution, contents — public hearing required, notice — certain property exempt from ad valorem taxes, duration — time period — property affected — assessor's duties.
- 135.1070. Tax credit allowed, duration — prohibition on receiving other tax credits — limitations on issuance of tax credits — cap — eligibility of certain expansions — employee calculations — computation of credit — flow-through tax treatments — credits may be claimed, when — certificates — refunds.
- 135.1075. Rulemaking authority.
- 135.1078. Eligibility of existing enterprise zones.
- 144.757. Local use tax to fund community comeback program — rate of tax — St. Louis County — ballot of submission — notice to director of revenue — repeal or reduction of local sales tax, effect on local use tax.
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- 144.759. Collection of additional local use tax for economic development — deposit in local use tax trust fund, not part of state revenue — distribution to counties and municipalities — refunds — notification to director of revenue on abolishment of tax — economic development defined.
- 178.980. Definitions.
- 178.981. Community college districts may contract to provide training, application, agreement provisions.
- 178.982. Retained jobs credit from withholding, how determined.
- 178.983. Powers and duties of community college districts providing retained jobs training programs — certificates — notice — board findings — certificates not state or district indebtedness — rulemaking authority — limitation on certificate sales.
- 178.984. Missouri community college job retention training program fund established — forms, reimbursement from the fund.
- 620.1039. Tax credit for qualified research expenses, exception — certification by director of economic development — transfer of credits, application, restrictions and procedure — limitations on credit — tax credits prohibited, when.
- 644.032. Sales tax for purpose of storm water control or local parks or both may be imposed by any county or municipality — tax, how calculated — voter approval — ballot form — effective when — failure of tax, resubmission, when — revenue may be used for parks located outside of county or municipality, when.
- 67.478. Title.
- 67.481. Definitions.
- 67.484. St. Louis County authorized to form community comeback trust, purposes, formation — board, composition, nomination, powers, duties, restrictions — funding, local sales tax, bond issuance, validity, payment.
- 67.487. Community comeback plan, notification, development, distribution, annual revision and adoption — reports and audits required — advisory committee to be established by the board.
- 67.490. Petitions, contents, review, criteria, approval by board as proposal, public hearing — procedure if funds sought, additional review, findings by board required when — select neighborhood action program, eligible projects.
- 67.493. Funds, minimum to be used for SNAP grant program and priority comeback projects, other uses.
- 620.1400. Citation of law, applicability.
- 620.1410. Program established, training.
- 620.1420. Definitions.
- 620.1430. Participation by employers, notification — selection of educational institution — payment of classroom training costs.
- 620.1440. Reimbursement of costs — tax credit allowed, credit carried forward — documentation required.
- 620.1450. Maximum tax credit allowed.
- 620.1460. Authority to promulgate rules.
- 620.1560. Mature worker child care program established — definitions — proposal solicited, content — tax credit allowed, amount — independent evaluation conducted.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 32.105, 32.110, 67.478, 67.481, 67.484, 67.487, 67.490, 67.493, 67.1401, 67.1461, 67.1545, 67.1706, 67.1754, 71.620, 94.270, 99.1000, 99.1018, 100.255, 100.260, 100.270, 100.281, 100.710, 135.207, 135.215, 135.530, 144.757, 144.759, 620.1039, 620.1400, 620.1410, 620.1420, 620.1430, 620.1440, 620.1450, 620.1460, 620.1560, and 644.032, RSMo, and section 100.850 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 289, ninety-second general assembly, first regular session, and section 100.850 as enacted by senate committee substitute for senate bill no. 620, ninety-second general assembly, first regular session, are repealed and sixty-three new sections enacted in lieu thereof, to be known as sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 32.105, 32.110, 67.1303, 67.1401, 67.1461, 67.1545, 67.1706, 67.1754, 67.2500, 67.2505, 67.2510, 67.2515, 67.2520, 67.2525, 67.2530, 71.620, 94.270, 94.578, 99.1000, 99.1018, 100.255, 100.260, 100.270, 100.277, 100.281, 100.293, 100.710, 100.850, 135.155, 135.207, 135.212, 135.215, 135.262, 135.286, 135.530, 135.546, 135.900, 135.903, 135.910, 135.911, 135.1050, 135.1055, 135.1057, 135.1060, 135.1065, 135.1070, 135.1075, 135.1078, 144.757, 144.759, 178.980, 178.981, 178.982, 178.983, 178.984, 620.1039, and 644.032, to read as follows:

30.750. DEFINITIONS. — As used in sections 30.750 to 30.765, the following terms mean:

(1) "Eligible agribusiness", a person, employing ten or more persons engaged in the processing or adding of value to agricultural products produced in Missouri;

(2) "Eligible beginning farmer",

(a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:

a. Is a Missouri resident;

b. Wishes to borrow for a farm operation located in Missouri;

c. Is at least eighteen years old;

d. In the preceding five years has not owned, either directly or indirectly, farm land greater than thirty percent of the median size farm in the county where the proposed farm operation is located, or farm land with an appraised value greater than one hundred twenty-five thousand dollars; and

e. Has not been the sole farmer of land for more than ten years prior to the date of application of the proposed farm operation.

A farmer who qualifies as an eligible farmer under this provision may utilize the proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used farm equipment, livestock and working capital;

(b) For any beginning farmer who is participating in both the linked deposit program and the beginning farmer loan program administered by the Missouri agriculture and small business development authority, a farmer who:

a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal tax-exempt financing, including the limitations on the use of loan proceeds; and

b. Meets all other requirements established by the Missouri agriculture and small business development authority;

(3) "Eligible farming operation", any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo, that has all of the following characteristics:

(a) Is headquartered in this state;

(b) Maintains offices, operating facilities, or farming operations and transacts business in this state;

(c) Employs less than ten employees;

(d) Is organized for profit;

(e) Possesses not more than sixty percent equity, where "percent equity" is defined as total assets minus total liabilities divided by total assets, except that an otherwise eligible farming operation applying for a loan for the purpose of installing or improving a waste management practice in order to comply with environmental protection regulations shall be exempt from this eligibility requirement;

(4) "Eligible higher education institution", any approved public or private institution as defined in section 173.205, RSMo;

(5) "Eligible job enhancement business", a new, existing or expanding firm operating in Missouri which employs ten or more employees on a yearly average and which, as nearly as possible, is able to establish or retain at least one job in Missouri for each twenty-five thousand dollars received from a linked deposit loan;

(6) "Eligible lending institution", a financial institution that is eligible to make commercial or agricultural or student loans or discount or purchase such loans, is a public depository of state funds or obtains its funds through the issuance of obligations, either directly or through a related entity, eligible for the placement of state funds under the provisions of section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit program;

(7) **"Eligible multi-tenant development enterprises", a new enterprise that develops multi-tenant space for targeted industries as determined by the department of economic**

development and approved by the department for the purposes of eligibility pursuant to sections 30.750 to 30.765;

(8) "Eligible livestock operation", any person, engaged in production of livestock or poultry in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo;

[(8)] (9) "Eligible marketing enterprise", a business enterprise operating in this state which is in the process of marketing its goods, products or services within or outside of this state or overseas, which marketing is designed to increase manufacturing, transportation, mining, communications, or other enterprises in this state, which has proposed its marketing plan and strategy to the department of economic development and which plan and strategy has been approved by the department for purposes of eligibility pursuant to sections 30.750 to 30.765. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of subdivision (3) of this section and also employ less than twenty-five employees;

[(9)] (10) "Eligible residential property developer", an individual who purchases and develops a residential structure of either two or four units, if such residential property developer uses and agrees to continue to use, for at least the five years immediately following the date of issuance of the linked deposit loan, one of the units as his principal residence or if such person's principal residence is located within one-half mile from the developed structure and such person agrees to maintain the principal residence within one-half mile of the developed structure for at least the five years immediately following the date of issuance of the linked deposit loan;

[(10)] (11) "Eligible residential property owner", a person, firm or corporation who purchases, develops or rehabilitates a multifamily residential structure;

[(11)] (12) "Eligible small business", a person engaged in an activity with the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision (3) of this section, and also employs less than twenty-five employees;

[(12)] (13) "Eligible student borrower", any person attending, or the parent of a dependent undergraduate attending, an eligible higher education institution in Missouri who may or may not qualify for need-based student financial aid calculated by the federal analysis called Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986);

[(13)] (14) "Eligible water supply system", a water system which serves fewer than fifty thousand persons and which is owned and operated by:

(a) A public water supply district established pursuant to chapter 247, RSMo; or

(b) A municipality or other political subdivision; or

(c) A water corporation; and which is certified by the department of natural resources in accordance with its rules and regulations to have suffered a significant decrease in its capacity to meet its service needs as a result of drought;

[(14)] (15) "Farming", using or cultivating land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products;

[(15)] (16) "Linked deposit", a certificate of deposit, or in the case of production credit associations, the subscription or purchase outright of obligations described in section 15, article IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at up to three percent below current market rates that are determined and calculated by the state treasurer, provided the deposit rate is not below two percent, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in sections 30.750 to 30.765, to eligible small businesses, farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers, or eligible water supply systems at below the present borrowing rate applicable to each small business, farming operation, eligible job enhancement business, eligible

marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, or supply system at the time of the deposit of state funds in the institution;

[(16)] (17) "Water corporation", as such term is defined in section 386.020, RSMo;

[(17)] (18) "Water system", as such term is defined in section 386.020, RSMo.

30.753. TREASURER'S AUTHORITY TO INVEST IN LINKED DEPOSITS, LIMITATIONS. — 1.

The state treasurer may invest in linked deposits; however, the total amount so deposited at any one time shall not exceed, in the aggregate, three hundred [fifty] **sixty** million dollars. No more than one hundred sixty-five million dollars of the aggregate deposit shall be used for linked deposits to eligible farming operations, eligible agribusinesses, eligible beginning farmers and eligible livestock operations, no more than fifty-five million of the aggregate deposit shall be used for linked deposits to small businesses, **no more than ten million dollars shall be used for linked deposits to eligible multi-tenant development enterprises, and** no more than ten million dollars of the aggregate deposit shall be used for linked deposits to eligible residential property developers and eligible residential property owners, no more than one hundred ten million dollars of the aggregate deposit shall be used for linked deposits to eligible job enhancement businesses and no more than ten million dollars of the aggregate deposit shall be used for linked deposit loans to eligible water systems. Linked deposit loans may be made to eligible student borrowers from the aggregate deposit. If demand for a particular type of linked deposit exceeds the initial allocation, and funds initially allocated to another type are available and not in demand, the state treasurer may commingle allocations among the types of linked deposits. The amount reallocated under this commingling provision shall not exceed fifty percent of the initial allocation.

2. The minimum deposit to be made by the state treasurer to an eligible lending institution for eligible job enhancement business loans shall be ninety thousand dollars. Linked deposit loans for eligible job enhancement businesses may be made for the purposes of assisting with relocation expenses, working capital, interim construction, inventory, site development, machinery and equipment, or other expenses necessary to create or retain jobs in the recipient firm.

30.756. LENDING INSTITUTION RECEIVING LINKED DEPOSITS, REQUIREMENTS AND LIMITATIONS — FALSE STATEMENTS AS TO USE FOR LOAN, PENALTY — ELIGIBLE STUDENT BORROWERS — ELIGIBILITY, STUDENT RENEWAL LOANS, REPAYMENT METHOD. — 1.

An eligible lending institution that desires to receive a linked deposit shall accept and review applications for linked deposit loans from **eligible multi-tenant enterprises**, eligible farming operations, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible residential property developers, eligible residential property owners, eligible student borrowers and eligible water supply systems. An eligible residential property owner shall certify on his loan application that the reduced rate loan will be used exclusively to purchase, develop or rehabilitate a multifamily residential property. The lending institution shall apply all usual lending standards to determine the credit worthiness of each **eligible multi-tenant enterprises**, eligible farming operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system. No linked deposit loan made to any eligible farming operation, eligible livestock operation, eligible agribusiness or eligible small business shall exceed one hundred thousand dollars and no service of separate loans may be made which exceeds such limit to any single eligible farming operation, eligible livestock operation, eligible agribusiness or eligible small business.

2. An eligible farming operation, small business or job enhancement business shall certify on its loan application that the reduced rate loan will be used exclusively for necessary production expenses or the expenses listed in subsection 2 of section 30.753 or the refinancing of an existing loan for production expenses or the expenses listed in subsection 2 of section 30.753 of an eligible farming operation, small business or job enhancement business. Whoever knowingly makes a false statement concerning such application is guilty of a class A misdemeanor. An eligible water supply system shall certify on its loan application that the reduced rate loan shall be used exclusively to pay the costs of upgrading or repairing an existing water system, constructing a new water system, or making other capital improvements to a water system which are necessary to improve the service capacity of the system.

3. In considering which eligible farming operations should receive reduced rate loans, the eligible lending institution shall give priority to those farming operations which have suffered reduced yields due to drought or other natural disasters and for which the receipt of a reduced rate loan will make a significant contribution to the continued operation of the recipient farming operation.

4. The eligible financial institution shall forward to the state treasurer a linked deposit loan package, in the form and manner as prescribed by the state treasurer. The package shall include such information as required by the state treasurer, including the amount of each loan requested. The institution shall certify that each applicant is an eligible farming operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system, and shall, for each eligible farming operation, small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system, certify the present borrowing rate applicable.

5. The eligible lending institution shall be responsible for determining if a student borrower is an eligible student borrower. A student borrower shall be eligible for an initial or renewal reduced rate loan only if, at the time of the application for the loan, he is a citizen or permanent resident of the United States, a resident of the state of Missouri as defined by the coordinating board for higher education, is enrolled or has been accepted for enrollment in an eligible higher education institution, and establishes that he has financial need. In considering which eligible student borrowers may receive reduced rate loans, the eligible lending institution may give priority to those eligible student borrowers whose income, or whose family income, if the eligible student borrower is a dependent, is such that the eligible student borrower does not qualify for need-based student financial aid pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986). The eligible lending institution shall require the eligible student borrower to document that he has applied for and has obtained all need-based student financial aid for which he is eligible prior to application for a reduced rate loan pursuant to this section. In no case shall the combination of all financial aid awarded to any student in any particular enrollment period exceed the total cost of attendance at the institution in which the student is enrolled. No eligible lending institution shall charge any additional fees, including but not limited to an origination, service or insurance fee on any loan agreement under the provisions of sections 30.750 to 30.765.

6. The eligible lending institution making an initial loan to an eligible student borrower may make a renewal loan or loans to the student. The total of such reduced rate loans from eligible lending institutions made pursuant to this section to any individual student shall not exceed the cumulative totals established by 20 U.S.C. 1078, as amended. An eligible student borrower shall certify on his loan application that the reduced rate loan shall be used exclusively to pay the costs of tuition, incidental fees, books and academic supplies, room and board and other fees directly related to enrollment in an eligible higher education institution. The eligible lending institution shall make the loan payable to the eligible student borrower and the eligible higher education

institution as copayees. The method of repayment of the loan shall be the same as for repayment of loans made pursuant to sections 173.095 to 173.186, RSMo.

30.758. LOAN PACKAGE ACCEPTANCE OR REJECTION — LOAN AGREEMENT REQUIREMENTS — LINKED DEPOSIT AT LESS THAN MARKET INTEREST RATE AUTHORIZED — MARKET INTEREST RATE, WHEN. — 1. The state treasurer may accept or reject a linked deposit loan package or any portion thereof.

2. Upon acceptance of the linked deposit loan package or any portion thereof, the state treasurer may place linked deposits with the eligible lending institution at up to three percent below current market rates, as determined and calculated by the state treasurer provided the deposit rate is not below two percent. When necessary, the treasurer may place linked deposits prior to acceptance of a linked deposit loan package.

3. The eligible lending institution shall enter into a deposit agreement with the state treasurer, which shall include requirements necessary to carry out the purposes of sections 30.750 to 30.765. Such requirements shall reflect the market conditions prevailing in the eligible lending institution's lending area. The deposit agreement shall specify the length of time for which the lending institution will lend funds upon receiving a linked deposit. The agreement shall also include provisions for the linked deposit of a linked deposit for an **eligible multi-tenant enterprise**, eligible farming operation, small business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or job enhancement business to mature within a period not to exceed one year. The state treasurer may renew such linked deposit for additional periods of time, each of which shall not exceed one year. The linked deposit of a linked deposit for an eligible property developer or residential property owner shall mature within a period not to exceed three years. The linked deposit of a linked deposit for an eligible water supply system shall mature within a period not to exceed three years and the state treasurer may renew such a linked deposit for additional periods of time, each of which shall not exceed three years. Interest shall be paid at the times determined by the state treasurer.

4. The period of time for which such linked deposit is placed with an eligible lending institution shall be neither longer nor shorter than the period of time for which the linked deposit is used to provide loans at reduced interest rates. The agreement shall further provide that the state shall receive market interest rates on any linked deposit or any portion thereof for any period of time for which there is no corresponding linked deposit loan outstanding to an **eligible multi-tenant enterprise**, eligible farming operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system.

30.760. LOANS TO BE AT FIXED RATE OF INTEREST SET BY RULES — RECORDS OF LOANS TO BE SEGREGATED — PENALTY FOR VIOLATIONS — STATE TREASURER, POWERS AND DUTIES. — 1. Upon the placement of a linked deposit with an eligible lending institution, such institution is required to lend such funds to each approved **eligible multi-tenant enterprise**, eligible farm operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system listed in the linked deposit loan package required by section 30.756 and in accordance with the deposit agreement required by section 30.758. The loan shall be at a fixed rate of interest which is below the present borrowing rate applicable to each **eligible multi-tenant enterprise**, eligible farming operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system as determined

pursuant to rules and regulations promulgated by the state treasurer under the provisions of chapter 536, RSMo, including emergency rules issued pursuant to section 536.025, RSMo. In addition, the loan agreement shall specify that the **eligible multi-tenant enterprise**, eligible farming operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system shall use the proceeds as required by sections 30.750 to 30.765, and that in the event the loan recipient does not use the proceeds in the manner prescribed by sections 30.750 to 30.765, the remaining proceeds shall be immediately returned to the lending institution and that any proceeds used by the loan recipient shall be repaid to the lending institution as soon as practicable. All records and documents pertaining to the programs established by sections 30.750 to 30.765 shall be segregated by the lending institution for ease of identification and examination. A certification of compliance with this section in the form and manner as prescribed by the state treasurer shall be required of the eligible lending institution. Any lender or lending officer of an eligible lending institution who knowingly violates the provisions of sections 30.750 to 30.765 is guilty of a class A misdemeanor.

2. The state treasurer shall take any and all steps necessary to implement the linked deposit program and monitor compliance of **eligible multi-tenant enterprises**, eligible lending institutions, eligible farming operations, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers or eligible water supply systems. Annually, by the first day of February, the state treasurer shall report on the linked deposits program for the preceding calendar year to the governor, the speaker of the house of representatives, and the president pro tem of the senate. The report shall set forth the linked deposits made by the state treasurer under the program during the year and shall include information regarding the nature, terms, and amounts of the loans upon which the linked deposits were based. The report shall not include the assets, liabilities or percent equity of any recipient **eligible multi-tenant enterprise**, eligible farming operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system, but shall include a statement by the state treasurer that the eligible lending institutions have certified that all recipient **eligible multi-tenant enterprises**, eligible farming operations, eligible small businesses, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible student borrowers or eligible water supply systems meet the criteria of sections 30.750 to 30.765.

30.765. STATE AND STATE TREASURER NOT LIABLE ON LOANS — DEFAULT ON A LOAN NOT TO AFFECT DEPOSIT AGREEMENT WITH STATE. — The state and the state treasurer are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an **eligible multi-tenant enterprise**, eligible farm operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system. Any delay in payments or default on the part of an **eligible multi-tenant enterprise**, eligible farming operation, eligible small business, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower or eligible water supply system does not in any manner affect the deposit agreement between the eligible lending institution and the state treasurer.

32.105. DEFINITIONS — TAX CREDITS MAY BE TRANSFERRED, SOLD OR ASSIGNED, REQUIREMENTS. — As used in sections 32.100 to 32.125, the following terms mean:

(1) "Affordable housing assistance activities", money, real or personal property, or professional services expended or devoted to the construction, or rehabilitation of affordable housing units;

(2) "Affordable housing unit", a residential unit generally occupied by persons and families with incomes at or below the levels described in this subdivision and bearing a cost to the occupant no greater than thirty percent of the maximum eligible household income for the affordable housing unit. In the case of owner-occupied units, the cost to the occupant shall be considered the amount of the gross monthly mortgage payment, including casualty insurance, mortgage insurance, and taxes. In the case of rental units, the cost to the occupant shall be considered the amount of the gross rent. The cost to the occupant shall include the cost of any utilities, other than telephone. If any utilities are paid directly by the occupant, the maximum cost that may be paid by the occupant is to be reduced by a utility allowance prescribed by the commission. Persons or families are eligible occupants of affordable housing units if the household combined, adjusted gross income as defined by the commission is equal to or less than the following percentages of the median family income for the geographic area in which the residential unit is located, or the median family income for the state of Missouri, whichever is larger; ("geographic area" means the metropolitan area or county designated as an area by the federal Department of Housing and Urban Development under Section 8 of the United States Housing Act of 1937, as amended, for purposes of determining fair market rental rates):

Size of Household	Percent of State or Geographic Area Family Median Income
One Person	35%
Two Persons	40%
Three Persons	45%
Four Persons	50%
Five Persons	54%
Six Persons	58%
Seven Persons	62%
Eight Persons	66%

(3) "Business firm", person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state;

(4) "Commission", the Missouri housing development commission;

(5) "Community services", any type of counseling and advice, emergency assistance or medical care furnished to individuals or groups in the state of Missouri or transportation services at below-cost rates as provided in sections 208.250 to 208.275, RSMo;

(6) "Crime prevention", any activity which aids in the reduction of crime in the state of Missouri;

(7) "Defense industry contractor", a person, corporation or other entity which will be or has been negatively impacted as a result of its status as a prime contractor of the Department of Defense or as a second or third tier contractor. A "second tier contractor" means a person, corporation or other entity which contracts to perform manufacturing, maintenance or repair services for a prime contractor of the Department of Defense, and a "third tier contractor" means

a person, corporation or other entity which contracts with a person, corporation or other entity which contracts with a prime contractor of the Department of Defense;

(8) "Doing business", among other methods of doing business in the state of Missouri, a partner in a firm or a shareholder in an S corporation shall be deemed to be doing business in the state of Missouri if such firm or S corporation, as the case may be, is doing business in the state of Missouri;

(9) "Economic development", the acquisition, renovation, improvement, or the furnishing or equipping of existing buildings and real estate in distressed or blighted areas of the state when such acquisition, renovation, improvement, or the furnishing or equipping of the business development projects will result in the creation or retention of jobs within the state; or, until June 30, 1996, a defense conversion pilot project located in a standard metropolitan statistical area which contains a city with a population of at least three hundred fifty thousand inhabitants, which will assist Missouri-based defense industry contractors in their conversion from predominately defense-related contracting to nondefense-oriented manufacturing. Only neighborhood organizations, as defined in subdivision (15) of this section, may apply to conduct economic development projects. Prior to the approval of an economic development project, the neighborhood organization shall enter into a contractual agreement with the department of economic development. Credits approved for economic development projects may not exceed four million dollars from within any one fiscal year's allocation, **except that for fiscal years 2005, 2006, and 2007 credits approved for economic development projects shall not exceed six million dollars.** Neighborhood assistance program tax credits for economic development projects and affordable housing assistance as defined in section 32.111, may be transferred, sold or assigned by a notarized endorsement thereof naming the transferee;

(10) "Education", any type of scholastic instruction or scholarship assistance to an individual who resides in the state of Missouri that enables the individual to prepare himself or herself for better opportunities or community awareness activities rendered by a statewide organization established for the purpose of archeological education and preservation;

(11) ["Eligible farmers' market", a group of farmers, each of whom farms agricultural land located within this state which he or she rents or owns, and who have formed a group for the purpose of allowing each member farmer to sell his or her products derived from his or her farming activities to the public at a common structure or building when at least fifty percent of the costs of such structure or building are paid for by such group of farmers;

(12) "Eligible new generation cooperative", as defined in section 348.340, RSMo;

(13)] "Homeless assistance pilot project", the program established pursuant to section 32.117;

[(14)] (12) "Job training", any type of instruction to an individual who resides in the state of Missouri that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment;

[(15)] (13) "Neighborhood organization", any organization performing community services or economic development activities in the state of Missouri and:

(a) Holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation pursuant to the provisions of the Internal Revenue Code; or

(b) Incorporated in the state of Missouri as a not-for-profit corporation pursuant to the provisions of chapter 355, RSMo; or

(c) Designated as a community development corporation by the United States government pursuant to the provisions of Title VII of the Economic Opportunity Act of 1964; [or

(d) Contributing funds to help finance a building or structure or purchase equipment located within this state and used to sell agricultural food products or to add value to food products produced in this state by members of an eligible new generation cooperative; or contributing funds to help finance a building or structure or purchase equipment owned by a not-for-profit organization located within this state and used to sell agricultural food products or to add value

to food products produced by family farms as defined in subdivision (4) of section 350.010, RSMo, or family farm corporations as defined in subdivision (5) of section 350.010, RSMo;

(16)] (14) "Physical revitalization", furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement or rehabilitation of any part or all of a neighborhood area;

[(17)] (15) "S corporation", a corporation described in Section 1361(a)(1) of the United States Internal Revenue Code and not subject to the taxes imposed by section 143.071, RSMo, by reason of section 143.471, RSMo;

[(18)] (16) "Workfare renovation project", any project initiated pursuant to sections 215.340 to 215.355, RSMo.

32.110. FIRMS PROVIDING NEIGHBORHOOD ASSISTANCE TO RECEIVE TAX CREDITS. —

Any business firm which engages in the activities of providing physical revitalization, economic development, job training or education for individuals, community services, [eligible farmers' markets] or crime prevention in the state of Missouri shall receive a tax credit as provided in section 32.115 if the director of the department of economic development annually approves the proposal of the business firm; except that, no proposal shall be approved which does not have the endorsement of the agency of local government within the area in which the business firm is engaging in such activities which has adopted an overall community or neighborhood development plan that the proposal is consistent with such plan. The proposal shall set forth the program to be conducted, the neighborhood area to be served, why the program is needed, the estimated amount to be contributed to the program and the plans for implementing the program. If, in the opinion of the director of the department of economic development, a business firm's contribution can more consistently with the purposes of sections 32.100 to 32.125 be made through contributions to a neighborhood organization as defined in subdivision [(15)] (13) of section 32.105, tax credits may be allowed as provided in section 32.115. The director of the department of economic development is hereby authorized to promulgate rules and regulations for establishing criteria for evaluating such proposals by business firms for approval or disapproval and for establishing priorities for approval or disapproval of such proposals by business firms with the assistance and approval of the director of the department of revenue. The total amount of tax credit granted for programs approved pursuant to sections 32.100 to 32.125 shall not exceed fourteen million dollars in fiscal year 1999 and twenty-six million dollars in fiscal year 2000, and any subsequent fiscal year, except as otherwise provided for proposals approved pursuant to section 32.111, 32.112 or 32.117. All tax credits authorized pursuant to the provisions of sections 32.100 to 32.125 may be used as a state match to secure additional federal funding. [The total amount of tax credits allowed for programs of neighborhood organizations defined pursuant to paragraph (d) of subdivision (15) of section 32.105 is two and one-half million dollars per fiscal year for fiscal years 2002 to 2006.]

67.1303. SALES TAX AUTHORIZED IN CERTAIN CITIES AND COUNTIES, RATE — BALLOT, EFFECTIVE DATE — USE OF REVENUE, LIMITATIONS — DEPOSIT OF FUNDS — ECONOMIC DEVELOPMENT TAX BOARD REQUIRED, MEMBERSHIP, TERMS — BOARD DUTIES — ANNUAL REPORT — REPEAL. — 1. The governing body of any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants, any home rule city with more than forty-five thousand five hundred but less than forty-five thousand nine hundred inhabitants and the governing body of any city within any county of the first classification with more than one hundred four thousand six hundred but less than one hundred four thousand seven hundred inhabitants and the governing body of any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants or any city within such county may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to

sales tax under chapter 144, RSMo. In addition, the governing body of any county of the first classification with more than eighty-five thousand nine hundred but less than eighty-six thousand inhabitants or the governing body of any home rule city with more than seventy-three thousand but less than seventy-five thousand inhabitants may impose, by order or ordinance, a sales tax on all retail sales made in the city or county which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section shall not be more than one-half of one percent. The order or ordinance imposing the tax shall not become effective unless the governing body of the city or county submits to the voters of the city or county at a state general or primary election a proposal to authorize the governing body to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city or county) impose a sales tax at a rate of (insert rate of percent) percent for economic development purposes?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter following the calendar quarter in which the election was held. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question, provided that no proposal shall be resubmitted to the voters sooner than twelve months from the date of the submission of the last proposal.

3. No revenue generated by the tax authorized in this section shall be used for any retail development project. At least twenty percent of the revenue generated by the tax authorized in this section shall be used solely for projects directly related to long-term economic development preparation, including, but not limited to, the following:

- (1) Acquisition of land;
- (2) Installation of infrastructure for industrial or business parks;
- (3) Improvement of water and wastewater treatment capacity;
- (4) Extension of streets;
- (5) Providing matching dollars for state or federal grants;
- (6) Marketing;
- (7) Providing grants and low-interest loans to companies for job training, equipment acquisition, site development, and infrastructure.

Not more than twenty-five percent of the revenue generated may be used annually for administrative purposes, including staff and facility costs.

4. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other city or county funds.

5. Any city or county imposing the tax authorized in this section shall establish an economic development tax board. The board shall consist of eleven members, to be appointed as follows:

- (1) Two members shall be appointed by the school boards whose districts are included within any economic development plan or area funded by the sales tax authorized in this section. Such members shall be appointed in any manner agreed upon by the affected districts;
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(2) One member shall be appointed, in any manner agreed upon by the affected districts, to represent all other districts levying ad valorem taxes within the area selected for an economic development project or area funded by the sales tax authorized in this section, excluding representatives of the governing body of the city or county;

(3) One member shall be appointed by the largest public school district in the city or county;

(4) In each city or county, five members shall be appointed by the chief elected officer of the city or county with the consent of the majority of the governing body of the city or county;

(5) In each city, two members shall be appointed by the governing body of the county in which the city is located. In each county, two members shall be appointed by the governing body of the county.

At the option of the members appointed by a city or county the members who are appointed by the school boards and other taxing districts may serve on the board for a term to coincide with the length of time an economic development project, plan, or designation of an economic development area is considered for approval by the board, or for the definite terms as provided in this subsection. If the members representing school districts and other taxing districts are appointed for a term coinciding with the length of time an economic development project, plan, or area is approved, such term shall terminate upon final approval of the project, plan, or designation of the area by the governing body of the city or county. If any school district or other taxing jurisdiction fails to appoint members of the board within thirty days of receipt of written notice of a proposed economic development plan, economic development project, or designation of an economic development area, the remaining members may proceed to exercise the power of the board. Of the members first appointed by the city or county, three shall be designated to serve for terms of two years, three shall be designated to serve for a term of three years, and the remaining members shall be designated to serve for a term of four years from the date of such initial appointments. Thereafter, the members appointed by the city or county shall serve for a term of four years, except that all vacancies shall be filled for unexpired terms in the same manner as were the original appointments.

6. The board, subject to approval of the governing body of the city or county, shall develop economic development plans, economic development projects, or designations of an economic development area, and shall hold public hearings and provide notice of any such hearings. The board shall vote on all proposed economic development plans, economic development projects, or designations of an economic development area, and amendments thereto, within thirty days following completion of the hearing on any such plan, project, or designation, and shall make recommendations to the governing body within ninety days of the hearing concerning the adoption of or amendment to economic development plans, economic development projects, or designations of an economic development area.

7. The board shall report at least annually to the governing body of the city or county on the use of the funds provided under this section and on the progress of any plan, project, or designation adopted under this section.

8. The governing body of any city or county that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city or county. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city or county) repeal the sales tax imposed at a rate of (insert rate of percent) percent for economic development purposes?

☐ YES ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was

approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters of the city or county, and the repeal is approved by a majority of the qualified voters voting on the question.

9. Whenever the governing body of any city or county that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city or county voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

67.1401. COMMUNITY IMPROVEMENT DISTRICT ACT, DEFINITIONS. — 1. Sections 67.1401 to 67.1571 shall be known and may be cited as the "Community Improvement District Act".

2. For the purposes of sections 67.1401 to 67.1571, the following words and terms mean:

(1) "Approval" or "approve", for purposes of elections pursuant to sections 67.1401 to 67.1571, a simple majority of those qualified voters voting in the election;

(2) "Assessed value", the assessed value of real property as reflected on the tax records of the county clerk of the county in which the property is located, or the collector of revenue if the property is located in a city not within a county, as of the last completed assessment;

(3) "Blighted area", an area which:

(a) By reason of the predominance of defective or inadequate street layout, insanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use; or

(b) Has been declared blighted or found to be a blighted area pursuant to Missouri law including, but not limited to, chapter 353, RSMo, sections 99.800 to 99.865, RSMo, or sections 99.300 to 99.715, RSMo;

(4) "Board", if the district is a political subdivision, the board of directors of the district, or if the district is a not-for-profit corporation, the board of directors of such corporation;

(5) "Director of revenue", the director of the department of revenue of the state of Missouri;

(6) "District", a community improvement district, established pursuant to sections 67.1401 to 67.1571;

(7) "Election authority", the election authority having jurisdiction over the area in which the boundaries of the district are located pursuant to chapter 115, RSMo;

(8) "Municipal clerk", the clerk of the municipality;

(9) "Municipality", any city [located in a county of the first classification or second classification, any city not within a county and any], **village, incorporated town, or county of this state, or in any unincorporated area that is located in any county with a charter form of government and with more than one million inhabitants;**

(10) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a district to carry out any of its powers, duties or purposes or to refund outstanding obligations;

(11) "Owner", for real property, the individual or individuals or entity or entities who own the fee of real property or their legally authorized representative; for business organizations and other entities, the owner shall be deemed to be the individual which is legally authorized to represent the entity in regard to the district;

(12) "Per capita", one head count applied to each individual, entity or group of individuals or entities having fee ownership of real property within the district whether such individual, entity or group owns one or more parcels of real property in the district as joint tenants, tenants in common, tenants by the entirety or tenants in partnership;

(13) "Petition", a petition to establish a district as it may be amended in accordance with the requirements of section 67.1421;

(14) "Qualified voters",

(a) For purposes of elections for approval of real property taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property which is to be subject to such real property taxes and is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, as of the thirtieth day prior to the date of the applicable election;

(b) For purposes of elections for approval of business license taxes or sales taxes:

a. Registered voters; or

b. If no registered voters reside in the district, the owners of one or more parcels of real property located within the district per the tax records for real property of the county clerk as of the thirtieth day before the date of the applicable election; and

(c) For purposes of the election of directors of the board, registered voters and owners of real property which is not exempt from assessment or levy of taxes by the district and which is located within the district per the tax records for real property of the county clerk, or the collector of revenue if the district is located in a city not within a county, of the thirtieth day prior to the date of the applicable election; and

(15) "Registered voters", persons who reside within the district and who are qualified and registered to vote pursuant to chapter 115, RSMo, pursuant to the records of the election authority as of the thirtieth day prior to the date of the applicable election.

67.1461. POWERS OF DISTRICT — REIMBURSEMENT OF MUNICIPALITY — LIMITATIONS.

— 1. Each district shall have all the powers, except to the extent any such power has been limited by the petition approved by the governing body of the municipality to establish the district, necessary to carry out and effectuate the purposes and provisions of sections 67.1401 to 67.1571 including, but not limited to, the following:

(1) To adopt, amend, and repeal bylaws, not inconsistent with sections 67.1401 to 67.1571, necessary or convenient to carry out the provisions of sections 67.1401 to 67.1571;

(2) To sue and be sued;

(3) To make and enter into contracts and other instruments, with public and private entities, necessary or convenient to exercise its powers and carry out its duties pursuant to sections 67.1401 to 67.1571;

(4) To accept grants, guarantees and donations of property, labor, services, or other things of value from any public or private source;

(5) To employ or contract for such managerial, engineering, legal, technical, clerical, accounting, or other assistance as it deems advisable;

(6) To acquire by purchase, lease, gift, grant, bequest, devise, or otherwise, any real property within its boundaries, personal property, or any interest in such property;

(7) To sell, lease, exchange, transfer, assign, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property or any interest in such property;

(8) To levy and collect special assessments and taxes as provided in sections 67.1401 to 67.1571. However, no such assessments or taxes shall be levied on any property exempt from taxation pursuant to subdivision (5) of section 137.100, RSMo. Those exempt pursuant to subdivision (5) of section 137.100, RSMo, may voluntarily participate in the provisions of sections 67.1401 to 67.1571;

(9) If the district is a political subdivision, to levy real property taxes and business license taxes in the county seat of a county of the first classification containing a population of at least two hundred thousand, as provided in sections 67.1401 to 67.1571. However, no such assessments or taxes shall be levied on any property exempt from taxation pursuant to subdivisions (2) and (5) of section 137.100, RSMo. Those exempt pursuant to subdivisions (2) and (5) of section 137.100, RSMo, may voluntarily participate in the provisions of sections 67.1401 to 67.1571;

(10) If the district is a political subdivision [in a city with a population of at least four hundred thousand located in more than one county], to levy sales taxes pursuant to sections 67.1401 to 67.1571;

(11) To fix, charge, and collect fees, rents, and other charges for use of any of the following:

- (a) The district's real property, except for public rights-of-way for utilities;
- (b) The district's personal property, except in a city not within a county; or
- (c) Any of the district's interests in such real or personal property, except for public rights-of-way for utilities;

(12) To borrow money from any public or private source and issue obligations and provide security for the repayment of the same as provided in sections 67.1401 to 67.1571;

(13) To loan money as provided in sections 67.1401 to 67.1571;

(14) To make expenditures, create reserve funds, and use its revenues as necessary to carry out its powers or duties and the provisions and purposes of sections 67.1401 to 67.1571;

(15) To enter into one or more agreements with the municipality for the purpose of abating any public nuisance within the boundaries of the district including, but not limited to, the stabilization, repair or maintenance or demolition and removal of buildings or structures, provided that the municipality has declared the existence of a public nuisance;

(16) Within its boundaries, to provide assistance to or to construct, reconstruct, install, repair, maintain, and equip any of the following public improvements:

- (a) Pedestrian or shopping malls and plazas;
- (b) Parks, lawns, trees, and any other landscape;
- (c) Convention centers, arenas, aquariums, aviaries, and meeting facilities;
- (d) Sidewalks, streets, alleys, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, drainage, water, storm and sewer systems, and other site improvements;
- (e) Parking lots, garages, or other facilities;
- (f) Lakes, dams, and waterways;
- (g) Streetscape, lighting, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls, and barriers;
- (h) Telephone and information booths, bus stop and other shelters, rest rooms, and kiosks;
- (i) Paintings, murals, display cases, sculptures, and fountains;
- (j) Music, news, and child-care facilities; and
- (k) Any other useful, necessary, or desired improvement;

(17) To dedicate to the municipality, with the municipality's consent, streets, sidewalks, parks, and other real property and improvements located within its boundaries for public use;

(18) Within its boundaries and with the municipality's consent, to prohibit or restrict vehicular and pedestrian traffic and vendors on streets, alleys, malls, bridges, ramps, sidewalks, and tunnels and to provide the means for access by emergency vehicles to or in such areas;

(19) Within its boundaries, to operate or to contract for the provision of music, news, child-care, or parking facilities, and buses, minibuses, or other modes of transportation;

(20) Within its boundaries, to lease space for sidewalk cafe' tables and chairs;

(21) Within its boundaries, to provide or contract for the provision of security personnel, equipment, or facilities for the protection of property and persons;

(22) Within its boundaries, to provide or contract for cleaning, maintenance, and other services to public and private property;

(23) To produce and promote any tourism, recreational or cultural activity or special event in the district by, but not limited to, advertising, decoration of any public place in the district, promotion of such activity and special events, and furnishing music in any public place;

(24) To support business activity and economic development in the district including, but not limited to, the promotion of business activity, development and retention, and the recruitment of developers and businesses;

(25) To provide or support training programs for employees of businesses within the district;

(26) To provide refuse collection and disposal services within the district;

(27) To contract for or conduct economic, planning, marketing or other studies;

(28) To repair, restore, or maintain any abandoned cemetery on public or private land within the district; and

(29) To carry out any other powers set forth in sections 67.1401 to 67.1571.

2. Each district which is located in a blighted area or which includes a blighted area shall have the following additional powers:

(1) Within its blighted area, to contract with any private property owner to demolish and remove, renovate, reconstruct, or rehabilitate any building or structure owned by such private property owner; and

(2) To expend its revenues or loan its revenues pursuant to a contract entered into pursuant to this subsection, provided that the governing body of the municipality has determined that the action to be taken pursuant to such contract is reasonably anticipated to remediate the blighting conditions and will serve a public purpose.

3. Each district shall annually reimburse the municipality for the reasonable and actual expenses incurred by the municipality to establish such district and review annual budgets and reports of such district required to be submitted to the municipality; provided that, such annual reimbursement shall not exceed one and one-half percent of the revenues collected by the district in such year.

4. Nothing in sections 67.1401 to 67.1571 shall be construed to delegate to any district any sovereign right of municipalities to promote order, safety, health, morals, and general welfare of the public, except those such police powers, if any, expressly delegated pursuant to sections 67.1401 to 67.1571.

5. The governing body of the municipality establishing the district shall not decrease the level of publicly funded services in the district existing prior to the creation of the district or transfer the financial burden of providing the services to the district unless the services at the same time are decreased throughout the municipality, nor shall the governing body discriminate in the provision of the publicly funded services between areas included in such district and areas not so included.

67.1545. SALES AND USE TAX AUTHORIZED IN CERTAIN DISTRICTS — PROCEDURE TO ADOPT, BALLOT LANGUAGE, IMPOSITION AND COLLECTION BY RETAILERS — PENALTIES FOR VIOLATIONS — DEPOSIT INTO TRUST FUND, USE — REPEAL. — 1. Any district [in a city with a population of at least four hundred thousand located in more than one county] **formed as a political subdivision** may impose by resolution a district sales and use tax on all retail sales made in such district which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats or outboard motors and sales to public

utilities. Any sales and use tax imposed pursuant to this section may be imposed at a rate of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, one-half of one percent or one percent. Such district sales and use tax may be imposed for any district purpose designated by the district in its ballot of submission to its qualified voters; except that, no resolution adopted pursuant to this section shall become effective unless the board of directors of the district submits to the qualified voters of the district, by mail-in ballot, a proposal to authorize a sales and use tax pursuant to this section. If a majority of the votes cast by the qualified voters on the proposed sales tax are in favor of the sales tax, then the resolution is adopted. If a majority of the votes cast by the qualified voters are opposed to the sales tax, then the resolution is void.

2. The ballot shall be substantially in the following form:

Shall the (insert name of district) Community Improvement District impose a community improvement districtwide sales and use tax at the maximum rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of providing revenue for (insert general description of the purpose)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

3. Within ten days after the qualified voters have approved the imposition of the sales and use tax, the district shall, in accordance with section 32.097, RSMo, notify the director of the department of revenue. The sales and use tax authorized by this section shall become effective on the first day of the second calendar quarter after the director of the department of revenue receives notice of the adoption of such tax.

4. The director of the department of revenue shall collect any tax adopted pursuant to this section pursuant to section 32.087, RSMo.

5. In each district in which a sales and use tax is imposed pursuant to this section, every retailer shall add such additional tax imposed by the district to such retailer's sale price, and when so added such tax shall constitute a part of the purchase price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price.

6. In order to allow retailers to collect and report the sales and use tax authorized by this section as well as all other sales and use taxes required by law in the simplest and most efficient manner possible, a district may establish appropriate brackets to be used in the district imposing a tax pursuant to this section in lieu of the brackets provided in section 144.285, RSMo.

7. The penalties provided in sections 144.010 to 144.525, RSMo, shall apply to violations of this section.

8. All revenue received by the district from a sales and use tax imposed pursuant to this section which is designated for a specific purpose shall be deposited into a special trust fund and expended solely for such purpose. Upon the expiration of any sales and use tax adopted pursuant to this section, all funds remaining in the special trust fund shall continue to be used solely for the specific purpose designated in the resolution adopted by the qualified voters. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors pursuant to applicable laws relating to the investment of other district funds.

9. A district may repeal by resolution any sales and use tax imposed pursuant to this section before the expiration date of such sales and use tax unless the repeal of such sales and use tax will impair the district's ability to repay any liabilities the district has incurred, moneys the district has borrowed or obligation the district has issued to finance any improvements or services rendered for the district.

67.1706. DISTRICT TO DEVELOP, OPERATE AND MAINTAIN SYSTEM OF INTERCONNECTING TRAILS AND PARKS — POWER TO CONTRACT WITH OTHER PARKS. —

The metropolitan district shall have as its [primary] duty the development, operation and maintenance of a public system of interconnecting trails and parks throughout the counties comprising the district. **Nothing in this section shall restrict the district's entering into and initiating projects dealing with parks not necessarily connected to trails.** The metropolitan district shall supplement but shall not substitute for the powers and responsibilities of the other parks and recreation systems within the metropolitan district **or other conservation and environmental regulatory agencies** and shall have the power to contract with other parks and recreation systems as well as with other public and private entities. **Nothing in this section shall give the metropolitan district authority to regulate water quality, watershed or land use issues in the counties comprising the district.**

67.1754. SALES TAX, HOW ALLOCATED. — The sales tax authorized in sections 67.1712 to 67.1721 shall be collected and allocated as follows:

(1) Fifty percent of the sales taxes collected from each county shall be deposited in the metropolitan park and recreational fund to be administered by the board of directors of the district to pay costs associated with the establishment, administration, operation and maintenance of public recreational facilities, parks, and public recreational grounds associated with the district. Costs for office administration beginning in the second fiscal year of district operations may be up to but shall not exceed fifteen percent of the amount deposited pursuant to this subdivision;

(2) Fifty percent of the sales taxes collected from each county shall be returned to the source county for park purposes, except that forty percent of such fifty percent amount shall be reserved for distribution to municipalities within the county in the form of grant revenue sharing funds. Each county in the district shall establish its own process for awarding the grant proceeds to its municipalities for park purposes **provided the purposes of such grants are consistent with the purpose of the district.** In the case of a county of the first classification with a charter form of government having a population of at least nine hundred thousand inhabitants, such grant proceeds shall be awarded to municipalities by a municipal grant commission as described in section 67.1757.

67.2500. ESTABLISHMENT OF A DISTRICT, WHERE — DEFINITIONS (ST. CHARLES COUNTY). — **1. The governing body of any city, town, or village that is within any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2505.**

2. Sections 67.2500 to 67.2530 shall be known as the "Theater, Cultural Arts, and Entertainment District Act".

3. As used in sections 67.2500 to 67.2530, the following terms mean:

(1) "District", a theater, cultural arts, and entertainment district organized under this section;

(2) "Qualified electors", "qualified voters", or "voters", registered voters residing within the district or subdistrict, or proposed district or subdistrict, who have registered to vote pursuant to chapter 115, RSMo, or, if there are no persons eligible to be registered voters residing in the district or subdistrict, proposed district or subdistrict, property owners, including corporations and other entities, that are owners of real property;

(3) "Registered voters", persons qualified and registered to vote pursuant to chapter 115, RSMo; and

(4) "Subdistrict", a subdivision of a district, but not a separate political subdivision, created for the purposes specified in subsection 5 of section 67.2505.

67.2505. PURPOSE OF DISTRICT — NAME — SIZE — SUBDISTRICTS PERMITTED — PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — **1. A district may be created to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture**

series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

2. A district is a political subdivision of the state.

3. The name of a district shall consist of a name chosen by the original petitioners, preceding the words "theater, cultural arts, and entertainment district".

4. The district shall include a minimum of fifty contiguous acres.

5. Subdistricts shall be formed for the purpose of voting upon proposals for the creation of the district or subsequent proposed subdistrict, voting upon the question of imposing a proposed sales tax, and for representation on the board of directors, and for no other purpose.

6. Whenever the creation of a district is desired, one or more registered voters from each subdistrict of the proposed district, or one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district, may file a petition requesting the creation of a district with the governing body of the city, town, or village within which the proposed district is to be established. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposition of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the governing body; and

(11) Any other items the petitioners deem appropriate.

7. Upon the filing of a petition pursuant to this section, the governing body of any city, town, or village described in this section may pass a resolution containing the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The timeframe and manner for the filing of protests;

(4) The proposed sales tax rate to be voted upon within the subdistricts of the proposed district;

(5) The proposed uses for the revenue to be generated by the new sales tax; and

(6) Such other matters as the governing body may deem appropriate.

8. Prior to the governing body certifying the question of the district's creation and imposing a sales tax for approval by the qualified electors, a hearing shall be held as provided by this subsection. The governing body of the municipality approving a resolution as set forth in subsection 7 of this section shall:

(1) Publish notice of the hearing, which shall include the information contained in the resolution cited in subsection 7 of this section, on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing;

(2) Hear all protests and receive evidence for or against the establishment of the proposed district; and

(3) Consider all protests, which determinations shall be final.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

9. Following the hearing, the governing body of any city, town, or village within which the proposed district will be located may order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the municipal clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing of the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the governing body. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

10. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the governing body may establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax, by adopting an ordinance to that effect. The ordinance establishing the district shall contain the following:

(1) The description of the boundaries of the district and each subdistrict;

(2) A statement that a theater, cultural arts, and entertainment district has been established;

(3) A declaration that the district is a political subdivision of the state;

(4) The name of the district;

(5) The date on which the sales tax election in the subdistricts was held, and the result of the election;

(6) The uses for any revenue generated by a sales tax imposed pursuant to this section;

(7) A certification to the newly created district of the election results, including the election concerning the sales tax; and

(8) Such other matters as the governing body deems appropriate.

11. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax before the voters of a proposed subdistrict, and the municipal clerk, or circuit clerk if the district is formed by the circuit court, shall conduct the election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

67.2510. ALTERNATIVE PROCEDURE FOR ESTABLISHMENT OF A DISTRICT. — As a complete alternative to the procedure establishing a district set forth in section 67.2505, a circuit court with jurisdiction over any city, town, or village that is within any county with

a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, may establish a theater, cultural arts, and entertainment district in the manner provided in section 67.2515.

67.2515. PETITION, CONTENTS, NOTICE — HEARING — DISTRICT DECLARED ORGANIZED, WHEN. — 1. Whenever the creation of a theater, cultural arts, and entertainment district is desired, one or more registered voters from each subdistrict of the proposed district, or if there are no registered voters in a subdistrict, one or more property owners who collectively own one or more parcels of real estate comprising at least a majority of the land situated in the proposed subdistricts within the proposed district may file a petition with the circuit court requesting the creation of a theater, cultural arts, and entertainment district. The petition shall contain the following information:

(1) The name, address, and phone number of each petitioner and the location of the real property owned by the petitioner;

(2) The name of the proposed district;

(3) A legal description of the proposed district, including a map illustrating the district boundaries, which shall be contiguous, and the division of the district into at least five, but not more than fifteen, subdistricts that shall contain, or are projected to contain upon full development of the subdistricts, approximately equal populations;

(4) A statement indicating the number of directors to serve on the board, which shall be not less than five or more than fifteen;

(5) A request that the district be established;

(6) A general description of the activities that are planned for the district;

(7) A proposal for a sales tax to fund the district initially, pursuant to the authority granted in sections 67.2500 to 67.2530, together with a request that the imposing of the sales tax be submitted to the qualified voters within the district;

(8) A statement that the proposed district shall not be an undue burden on any owner of property within the district and is not unjust or unreasonable;

(9) A request that the question of the establishment of the district be submitted to the qualified voters of the district;

(10) A signed statement that the petitioners are authorized to submit the petition to the circuit court; and

(11) Any other items the petitioners deem appropriate.

2. The circuit clerk of the county in which the petition is filed pursuant to this section shall present the petition to the judge, who shall thereupon set the petition for hearing not less than thirty days nor more than forty days after the filing. The judge shall cause publication of the notice of the hearing on two separate occasions in at least one newspaper of general circulation in the county where the proposed district is located, with the first publication to occur not more than thirty days before the hearing, and the second publication to occur not more than fifteen days or less than ten days before the hearing. The notice shall recite the following information:

(1) A description of the boundaries of the proposed district and each subdistrict;

(2) The time and place of a hearing to be held to consider establishment of the proposed district;

(3) The timeframe and manner for the filing of the petitions or answers in the case;

(4) The proposed sales tax rate to be voted on within the subdistricts of the proposed district;

(5) The proposed uses for the revenue generated by the new sales tax; and

(6) Such other matters as the circuit court may deem appropriate.

The costs of printing and publication of the notice shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

3. Any registered voter or owner of real property within the proposed district may join in or file a petition supporting or answer opposing the creation of the district and seeking a judgment respecting these same issues; provided, however, that all pleadings must be filed with the court no later than five days before the case is heard.

4. The court shall hear the case without a jury. If the court determines the petition is defective or the proposed district or its plan of operation is unconstitutional, it shall enter its judgment to that effect and shall refuse to incorporate the district as requested in the pleadings. If the court determines the petition is not legally defective and the proposed district and plan of operation are not unconstitutional, the court shall order an election on the questions of the district creation and sales tax funding for voter approval and certify the questions to the circuit clerk. The election order shall include the date on which the ballots will be mailed to qualified electors, which shall be not sooner than the eighth Tuesday from the issuance of the order. The election regarding the incorporation of the district and the imposing the sales tax shall follow the procedure set forth in section 67.2520, and shall be held pursuant to the order and certification by the circuit judge. Only those subdistricts approving the question of creating the district and imposing the sales tax shall become part of the district.

5. If the results of the election conducted in accordance with section 67.2520 show that a majority of the votes cast were in favor of organizing the district and imposing the sales tax, the circuit judge shall establish the proposed district in those subdistricts approving the question of creating the district and imposing the sales tax by issuing an order to that effect. The court shall determine and declare the district organized and incorporated and issue an order that includes the following:

- (1) The description of the boundaries of the district and each subdistrict;
- (2) A statement that a theater, cultural arts, and entertainment district has been established;
- (3) A declaration that the district is a political subdivision of the state;
- (4) The name of the district;
- (5) The date on which the sales tax election in the subdistricts was held, and the result of the election;
- (6) The uses for any revenue generated by a sales tax imposed pursuant to this section;
- (7) A certification to the newly created district of the election results, including the election concerning the sales tax; and
- (8) Such other matters as the circuit court deems appropriate.

6. Any subdistrict that does not approve the creation of the district and imposing the sales tax shall not be a part of the district and the sales tax shall not be imposed until after the district board of directors has submitted another proposal for the inclusion of the area into the district and such proposal and the sales tax proposal are approved by a majority of the qualified voters in the subdistrict voting thereon. Such subsequent elections shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the inclusion of a subdistrict within a district and the question of imposing a sales tax in the proposed subdistrict before the voters of a proposed subdistrict, and the circuit clerk shall conduct the subsequent election. In subsequent elections, the election judges shall certify the election results to the district board of directors.

7. Any party having filed a petition or answer to a petition may appeal the circuit court's order or judgment in the same manner as provided for other appeals. Any order either refusing to incorporate the district or incorporating the district shall be a final judgment for purposes of appeal.

67.2520. ELECTION CONDUCTED, WHEN — SALES TAX VOTE, AMOUNT — BALLOT FORM. — 1. If a governing body or circuit court judge has certified the question regarding

the district creation and sales tax funding for voter approval, the municipal clerk in which the district is located, or the circuit clerk if the order and certification has been by a circuit judge, shall conduct the election. The questions shall be submitted to the qualified voters of each subdistrict within the district boundaries who have filed an application pursuant to this section. The municipal clerk, or the circuit clerk if the district is being formed by the circuit court, shall publish notice of the election in at least one newspaper of general circulation in the county where the proposed district is located, with the publication to occur not more than fifteen days but not less than ten days before the date when applications for ballots will be accepted. The notice shall include a description of the district boundaries, the timeframe and manner of applying for a ballot, the questions to be voted upon, and where and when applications for ballots will be accepted. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall also send a notice of the election to all registered voters in the proposed district, which shall include the information in the published notice. The costs of printing and publication of the notice, and mailing of the notices to registered voters, shall be paid by the petitioners. If the district is organized pursuant to sections 67.2500 to 67.2530, the petitioners may be reimbursed for such costs out of the revenues received by the district.

2. For elections held in subdistricts pursuant to this section, if all the owners of property in a subdistrict joined in the petition for formation of the district, such owners may cast their ballot by unanimous petition approving any measure submitted to them as subdistrict voters pursuant to this section. Each owner shall receive one vote per acre owned. Fractional votes shall be allowed. The petition shall be submitted to the municipal clerk, or the circuit court clerk if the district is being formed by the circuit court, who shall verify the authenticity of all signatures thereon. The filing of a unanimous petition shall constitute an election in the subdistrict under this section and the results of said election shall be entered pursuant to this section.

3. The sales tax shall be not more than one-half of one percent on all retail sales within the district, which are subject to taxation pursuant to section 67.2530, to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district.

4. Application for a ballot shall be made as provided in this subsection:

(1) Persons entitled to apply for a ballot in an election shall be:

(a) A resident registered voter of the district; or

(b) If there are no registered voters in a subdistrict, a person, including a corporation or other entity, which owns real property within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. Each property owner shall receive one vote;

(2) Only persons entitled to apply for a ballot in elections pursuant to this subsection shall apply. Such persons shall apply with the municipal clerk, or the circuit clerk if the district is formed by the circuit court. Each person applying shall provide:

(a) Such person's name, address, mailing address, and phone number;

(b) An authorized signature; and

(c) Evidence that such person is entitled to vote. Such evidence shall be a copy of:

a. For resident individuals, proof of registration from the election authority;

b. For owners of real property, a tax receipt or deed or other document which evidences an equitable ownership, and identifies the real property by location;

(3) Applications for ballot applications shall be made not later than the fourth Tuesday before the ballots are mailed to qualified electors. The ballot of submission shall be in substantially the following form:

"Shall there be organized in (here specifically describe the proposed district boundaries), within the state of Missouri, a district, to be known as the "..... Theater, Cultural Arts, and Entertainment District" for the purpose of funding, promoting, and providing educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and funding, promoting, planning, designing, constructing, improving, maintaining, and operating public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Shall the (name of district) impose a sales tax of (insert rate) to fund, promote, and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and to fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities in the district?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO";

(4) Not sooner than the fourth Tuesday after the deadline for applying for ballots, the municipal clerk, or the circuit clerk if the district is being formed by the circuit court, shall mail a ballot to each qualified voter who applied for a ballot pursuant to this subsection along with a return addressed envelope directed to the municipal clerk or the circuit clerk's office, with a sworn affidavit on the reverse side of such envelope for the voter's signature. Such affidavit shall be in the following form:

"I hereby declare under penalties of perjury that I am qualified to vote, or to affix my authorized signature in the name of an entity which is entitled to vote, in this election.

Authorized Signature

Printed Name of Voter Signature of notary or other officer authorized to administer oaths.

..... Mailing Address of Voter (if different)

Subscribed and sworn to before me this day of....., 20.."

(5) Each qualified voter shall have one vote, except as provided for in this section. Each voted ballot shall be signed with the authorized signature as provided for in this subsection;

(6) Voted ballots shall be returned to the municipal clerk, or the clerk of the circuit court if the district is being formed by the circuit court, by mail or hand delivery no later than 5:00 p.m. on the fourth Tuesday after the date for mailing the ballots. The municipal clerk, or circuit clerk if the district is being formed by the circuit court, shall transmit all voted ballots to a team of judges of not less than four, with an equal number from each of the two major political parties. The judges shall be selected by the city, town, or village, or the circuit clerk, from lists compiled by the county election authority. Upon receipt of the voted ballots the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the governing body of the city, town, or village for further action, or the circuit judge for further action if the district is being formed by the circuit court. Any voter who applied for such election may contest the result in the same manner as provided in chapter 115, RSMo.

67.2525. BOARD OF DIRECTORS, QUALIFICATIONS — SUBDIVISION OF DISTRICT, HOW — POWERS AND DUTIES OF THE BOARD. — 1. Each member of the board of directors shall have the following qualifications:

(1) As to those subdistricts in which there are registered voters, a resident registered voter in the subdistrict that he or she represents, or be a property owner or, as to those subdistricts in which there are not registered voters who are residents, a property owner or representative of a property owner in the subdistrict he or she represents;

(2) Be at least twenty-one years of age and a registered voter in the district.

2. The district shall be subdivided into at least five, but not more than fifteen subdistricts, which shall be represented by one representative on the district board of directors. All board members shall have terms of four years, including the initial board of directors. All members shall take office upon being appointed and shall remain in office until a successor is appointed by the mayor or chairman of the municipality in which the district is located, or elected by the property owners in those subdistricts without registered voters.

3. For those subdistricts which contain one or more registered voters, the mayor or chairman of the city, town, or village shall, with the consent of the governing body, appoint a registered voter residing in the subdistrict to the board of directors.

4. For those subdistricts which contain no registered voters, the property owners who collectively own one or more parcels of real estate comprising more than half of the land situated in each subdistrict shall meet and shall elect a representative to serve upon the board of directors. The clerk of the city, town, or village in which the petition was filed shall, unless waived in writing by all property owners in the subdistrict, give notice by causing publication to be made once a week for two consecutive weeks in a newspaper of general circulation in the county, the last publication of which shall be at least ten days before the day of the meeting required by this section, to call a meeting of the owners of real property within the subdistrict at a day and hour specified in a public place in the city, town, or village in which the petition was filed for the purpose of electing members of the board of directors.

5. The property owners, when assembled, shall organize by the election of a temporary chairman and secretary of the meeting who shall conduct the election. An election shall be conducted for each subdistrict, with the eligible property owners voting in that subdistrict. At the election, each acre of real property within the subdistrict shall represent one share, and each owner, including corporations and other entities, may have one vote in person or for every acre of real property owned by such person within the subdistrict. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. The results of the meeting shall be certified by the temporary chairman and secretary to the municipal clerk if the district is established by a municipality described in this section, or to the circuit clerk if the district is established by a circuit court.

6. Successor boards shall be appointed or elected, depending upon the presence or absence of resident registered voters, by the mayor or chairman of a city, town, or village described in this section, or the property owners as set forth above; provided, however, that elections held by the property owners after the initial board is elected shall be certified to the municipal clerk of the city, town, or village where the district is located and the board of directors of the district.

7. Should a vacancy occur on the board of directors, the mayor or chairman of the city, town, or village if there are registered voters within the subdistrict, or a majority of the owners of real property in a subdistrict if there are not registered voters in the

subdistrict, shall have the authority to appoint or elect, as set forth in this section, an interim director to complete any unexpired term of a director caused by resignation or disqualification.

8. The board shall possess and exercise all of the district's legislative and executive powers, including:

(1) The power to fund, promote and provide educational, civic, musical, theatrical, cultural, concerts, lecture series, and related or similar entertainment events or activities, and fund, promote, plan, design, construct, improve, maintain, and operate public improvements, transportation projects, and related facilities within the district;

(2) The power to accept and disburse tax or other revenue collected in the district; and

(3) The power to receive property by gift or otherwise.

9. Within thirty days after the selection of the initial directors, the board shall meet. At its first meeting and annually thereafter the board shall elect a chairman from its members.

10. The board shall appoint an executive director, district secretary, treasurer, and such other officers or employees as it deems necessary.

11. At the first meeting, the board, by resolution, shall define the first and subsequent fiscal years of the district, and shall adopt a corporate seal.

12. A simple majority of the board shall constitute a quorum. If a quorum exists, a majority of those voting shall have the authority to act in the name of the board, and approve any board resolution.

13. At the first meeting, the board, by resolution, shall receive the certification of the election regarding the sales tax, and may impose the sales tax in all subdistricts approving the imposing sales tax. In those subdistricts that approve the sales tax, the sales tax shall become effective on the first day of the first calendar quarter immediately following the action by the district board of directors imposing the tax.

14. Each director shall devote such time to the duties of the office as the faithful discharge thereof and may require and be reimbursed for his or her actual expenditures in the performance of his or her duties on behalf of the district. Directors may be compensated, but such compensation shall not exceed one hundred dollars per month.

15. In addition to all other powers granted by sections 67.2500 to 67.2530, the district shall have the following general powers:

(1) To sue and be sued in its own name, and to receive service of process, which shall be served upon the district secretary;

(2) To fix compensation of its employees and contractors;

(3) To enter into contracts, franchises, and agreements with any person or entity, public or private, affecting the affairs of the district, including contracts with any municipality, district, or state, or the United States, and any of their agencies, political subdivisions, or instrumentalities, for the funding, including without limitation, interest rate exchange or swap agreements, planning, development, construction, acquisition, maintenance, or operation of a district facility or to assist in such activity;

(4) To acquire, develop, construct, equip, transfer, donate, lease, exchange, mortgage, and encumber real and personal property in furtherance of district purposes;

(5) To collect and disburse funds for its activities;

(6) To collect taxes and other revenues;

(7) To borrow money and incur indebtedness and evidence the same by certificates, notes, bonds, debentures, or refunding of any such obligations for the purpose of paying all or any part of the cost of land, construction, development, or equipping of any facilities or operations of the district;

(8) To own or lease real or personal property for use in connection with the exercise of powers pursuant to this subsection;

(9) To provide for the election or appointment of officers, including a chairman, treasurer, and secretary. Officers shall not be required to be residents of the district, and one officer may hold more than one office;

(10) To hire and retain agents, employees, engineers, and attorneys;

(11) To enter into entertainment contracts binding the district and artists, agencies, or performers, management contracts, contracts relating to the booking of entertainment and the sale of tickets, and all other contracts which relate to the purposes of the district;

(12) To contract with a local government, a corporation, partnership, or individual regarding funding, promotion, planning, designing, constructing, improving, maintaining, or operating a project or to assist in such activity;

(13) To contract for transfer to a city, town, or village such district facilities and improvements free of cost or encumbrance on such terms set forth by contract;

(14) To exercise such other powers necessary or convenient for the district to accomplish its purposes which are not inconsistent with its express powers.

16. A district may at any time authorize or issue notes, bonds, or other obligations for any of its powers or purposes. Such notes, bonds, or other obligations:

(1) Shall be in such amounts as deemed necessary by the district, including costs of issuance thereof;

(2) Shall be payable out of all or any portion of the revenues or other assets of the district;

(3) May be secured by any property of the district which may be pledged, assigned, mortgaged, or otherwise encumbered for payment;

(4) Shall be authorized by resolution of the district, and if issued by the district, shall bear such date or dates, and shall mature at such time or times, but not in excess of forty years, as the resolution shall specify;

(5) Shall be in such denomination, bear interest at such rates, be in such form, be issued as current interest bonds, compound interest bonds, variable rate bonds, convertible bonds, or zero coupon bonds, be issued in such manner, be payable in such place or places and subject to redemption as such resolution may provide; and

(6) May be sold at either public or private sale, at such interest rates, and at such price or prices as the district shall determine. The provisions of this subsection are applicable to the district notwithstanding the provisions of section 108.170, RSMo.

67.2530. REFUND OF DISTRICT INDEBTEDNESS, WHEN, HOW — IMPOSITION OF A SALES TAX AUTHORIZED — DEPOSIT AND USE OF SALES TAX REVENUE — REPEAL OF SALES TAX, BALLOT FORM. — 1. Any note, bond, or other indebtedness of the district may be refunded at any time by the district by issuing refunding bonds in such amount as the district may deem necessary. Such bonds shall be subject to, and shall have the benefit of the foregoing provisions regarding notes, bonds, and other obligations. Without limiting the generality of the foregoing, refunding bonds may include amounts necessary to finance any premium, unpaid interest, and costs of issuance in connection with the refunding bonds. Any such refunding may be effected whether the bonds to be refunded then shall have matured or thereafter shall mature, either by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations being refunded or the exchange of the refunding bonds for the obligations being refunded with the consent of the holders of the obligations being refunded.

2. Notes, bonds, or other indebtedness of the district shall be exclusively the responsibility of the district payable solely out of the district funds and property and shall not constitute a debt or liability of the state of Missouri or any agency or political subdivision of the state. Any notes, bonds, or other indebtedness of the district shall state on their face that they are not obligations of the state of Missouri or any agency or political subdivision thereof other than the district.

3. Any district may by resolution impose a district sales tax of up to one half of one percent on all retail sales made in such district that are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo. Upon voter approval, and receiving the necessary certifications from the governing body of the municipality in which the district is located, or from the circuit court if the district was formed by the circuit court, the board of directors shall have the power to impose a sales tax at its first meeting, or any meeting thereafter. Voter approval of the question of the imposing sales tax shall be in accordance with section 67.2520. The sales tax shall become effective in those subdistricts that approve the sales tax on the first day of the first calendar quarter immediately following the passage of a resolution by the board of directors imposing the sales tax.

4. In each district in which a sales tax has been imposed in the manner provided by this section, every retailer shall add the tax imposed by the district pursuant to this section to the retailer's sale price, and when so added, such tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price.

5. In order to permit sellers required to collect and report the sales tax authorized by this section to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to avoid fractions of pennies, the district may establish appropriate brackets which shall be used in the district imposing a tax pursuant to this section in lieu of those brackets provided in section 144.285, RSMo.

6. All revenue received by a district from the sales tax authorized by this section shall be deposited in a special trust fund and shall be used solely for the purposes of the district. Any funds in such special trust fund which are not needed for the district's current expenditures may be invested by the district board of directors in accordance with applicable laws relating to the investment of other district funds.

7. The sales tax may be imposed at a rate of up to one half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within the district adopting such tax, if such property and services are subject to taxation by the state of Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo. Any district sales tax imposed pursuant to this section shall be imposed at a rate that shall be uniform throughout the subdistricts approving the sales tax.

8. The resolution imposing the sales tax pursuant to this section shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the resolution as the sales tax and the tax shall be reported and returned to and collected by the district.

9. (1) On and after the effective date of any sales tax imposed pursuant to this section, the district shall perform all functions incident to the administration, collection, enforcement, and operation of the tax. The sales tax imposed pursuant to this section shall be collected and reported upon such forms and under such administrative rules and regulations as may be prescribed by the district.

(2) All such sales taxes collected by the district shall be deposited by the district in a special fund to be expended for the purposes authorized in this section. The district shall keep accurate records of the amount of money which was collected pursuant to this section, and the records shall be open to the inspection of officers of each district and the general public.

(3) The district may contract with the municipality that the district is within for the municipality to collect any revenue received by the district and, after deducting the cost of such collection, but not to exceed one percent of the total amount collected, deposit such

revenue in a special trust account. Such revenue and interest may be applied by the municipality to expenses, costs, or debt service of the district at the direction of the district as set forth in a contract between the municipality and the district.

10. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo, the uniform confidentiality provision, shall apply to the collection of the tax imposed by this section, except as modified in this section.

(2) All exemptions granted to agencies of government, organizations, persons, and to the sale of certain articles and items of tangible personal property and taxable services pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable to the imposition and collection of the tax imposed by this section.

(3) The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that the district may prescribe a form of exemption certificate for an exemption from the tax imposed by this section.

(4) All discounts allowed the retailer pursuant to the provisions of the state sales tax laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed and made applicable to any taxes collected pursuant to the provisions of this section.

(5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525, RSMo, for violation of those sections are hereby made applicable to violations of this section.

(6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all retail sales shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or the retailer's agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which the employee works.

(7) Subsequent to the initial approval by the voters and implementation of a sales tax in the district, the rate of the sales tax may be increased, but not to exceed a rate of one-half of one percent on retail sales as provided in this subsection. The election shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the increase of the sales tax before the voters of the district by resolution, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district, shall conduct the subsequent election. In subsequent elections, the election judges shall certify the election results to the district board of directors. The ballot of submission shall be in substantially the following form:

"Shall (name of district) increase the (insert amount) percent district sales tax now in effect to..... (insert amount) in the (name of district)?

☐ YES ☐ No

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the increase, the increase shall become effective December thirty-first of the calendar year in which such increase was approved.

11. (1) There shall not be any election as provided for in this section while the district has any financing or other obligations outstanding.

(2) The board, when presented with a petition signed by at least one-third of the registered voters in a district that voted in the last gubernatorial election, or signed by at least two-thirds of property owners of the district, calling for an election to dissolve and repeal the tax shall submit the question to the voters using the same procedure by which the imposing tax was voted. The ballot of submission shall be in substantially the following form:

"Shall (name of district) dissolve and repeal the (insert amount) percent district sales tax now in effect in the (name of district)?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

Such subsequent elections for the repeal of the sales tax shall be conducted in accordance with section 67.2520; provided, however, that the district board of directors may place the question of the repeal of the sales tax before the voters of the district, and the municipal clerk of the city, town, or village which originally conducted the incorporation of the district, or the circuit clerk of the court which originally conducted the incorporation of the district shall conduct the subsequent election. In subsequent elections the election judges shall certify the election results to the district board of directors.

(3) If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of repeal, that repeal shall become effective December thirty-first of the calendar year in which such repeal was approved or after the repayment of the district's indebtedness, whichever occurs later.

12. (1) At such time as the board of directors of the district determines that further operation of the district is not in the best interests of the inhabitants of the district, and that the district should dissolve, the board shall submit for a vote in an election held throughout the district the question of whether the district should be abolished. The question shall be submitted in substantially the following form:

"Shall the theater, cultural arts, and entertainment district be abolished?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

(2) The district board shall not propose the question to abolish the district while there are outstanding claims or causes of action pending against the district, while the district liabilities exceed its assets, while indebtedness of the district is outstanding, or while the district is insolvent, in receivership or under the jurisdiction of the bankruptcy court. Prior to submitting the question to abolish the district to a vote of the entire district, the state auditor shall audit the district to determine the financial status of the district, and whether the district may be abolished pursuant to law. The vote on the abolition of the district shall be conducted by the municipal clerk of the city, town, or village in which the district is located. The procedure shall be the same as in section 67.2520, except that the question shall be determined by the qualified voters of the entire district. No individual subdistrict may be abolished, except at such time as the district is abolished.

(3) While the district still exists, it shall continue to accrue all revenues to which it is entitled at law.

(4) Upon receipt by the board of directors of the district of the certification by the city, town, or village in which the district is located that the majority of those voting within the entire district have voted to abolish the district, and if the state auditor has determined that the district's financial condition is such that it may be abolished pursuant to law, then the board of directors of the district shall:

(a) Sell any remaining district real or personal property it wishes, and then transfer the proceeds and any other real or personal property owned by the district to the city, town, or village in which the district is located, including revenues due and owing the district, for its further use and disposition;

(b) Terminate the employment of any remaining district employees, and otherwise conclude its affairs;

(c) At a public meeting of the district, declare by a resolution of the board of directors passed by a majority vote that the district has been abolished effective that date;

(d) Cause copies of that resolution under seal to be filed with the secretary of state and the city, town, or village in which the district is located. Upon the completion of the final act specified in this subsection, the legal existence of the district shall cease.

(5) The legal existence of the district shall not cease for a period of two years after voter approval of the abolition.

71.620. IMPOSITION OF TAX OR LICENSE FEE ON CERTAIN PROFESSIONS PROHIBITED — IMPOSITION OF TAX OR FEE PROHIBITED UNLESS BUSINESS OFFICE MAINTAINED — LIMITATION ON BUSINESS LICENSE TAX AMOUNT IN CERTAIN VILLAGES. — 1. Hereafter no person following for a livelihood the profession or calling of minister of the gospel, duly accredited Christian Science practitioner, teacher, professor in a college, priest, lawyer, certified public accountant, dentist, chiropractor, optometrist, chiropodist, physician or surgeon in this state shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on such profession or calling, and, after December 31, 2003, no investment funds service corporation, as defined in section 143.451, RSMo, may be required to pay, or shall be taxed or made liable to pay any municipal or other corporation tax or license fee of any description whatever for the privilege of following or carrying on its business or occupation, in excess of or in an aggregate amount exceeding twenty-five thousand dollars annually, any law, ordinance or charter to the contrary notwithstanding.

2. No person following for a livelihood the profession of insurance agent or broker, veterinarian, architect, professional engineer, land surveyor, auctioneer, or real estate broker or salesman in this state shall be taxed or made liable to pay any municipal or other corporation tax or license fee for the privilege of following or carrying on his **or her** profession by a municipality unless that person maintains a business office within that municipality.

3. Notwithstanding any other provision of law to the contrary, after September 1, 2004, no village with less than one thousand three hundred inhabitants shall impose a business license tax in excess of [ten] **fifteen** thousand dollars per license.

94.270. POWER TO LICENSE, TAX AND REGULATE CERTAIN BUSINESSES AND OCCUPATIONS — PROHIBITION ON LOCAL LICENSE FEES IN EXCESS OF CERTAIN AMOUNTS IN CERTAIN CITIES (EDMUNDSON, WOODSON TERRACE). — 1. The mayor and board of aldermen shall have power and authority to regulate and to license and to levy and collect a license tax on auctioneers, druggists, hawkers, peddlers, banks, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, hotels, public boardinghouses, billiard and pool tables and other tables, bowling alleys, lumber dealers, real estate agents, loan companies, loan agents, public buildings, public halls, opera houses, concerts, photographers, bill posters, artists, agents, porters, public lecturers, public meetings, circuses and shows, for parades and exhibitions, moving picture shows, horse or cattle dealers, patent right dealers, stockyards,

inspectors, gaugers, mercantile agents, gas companies, insurance companies, insurance agents, express companies, and express agents, telegraph companies, light, power and water companies, telephone companies, manufacturing and other corporations or institutions, automobile agencies, and dealers, public garages, automobile repair shops or both combined, dealers in automobile accessories, gasoline filling stations, soft drink stands, ice cream stands, ice cream and soft drink stands combined, soda fountains, street railroad cars, omnibuses, drays, transfer and all other vehicles, traveling and auction stores, plumbers, and all other business, trades and avocations whatsoever, and fix the rate of carriage of persons, drayage and cartage of property; and to license, tax, regulate and suppress ordinaries, money brokers, money changers, intelligence and employment offices and agencies, public masquerades, balls, street exhibitions, dance houses, fortune tellers, pistol galleries, corn doctors, private venereal hospitals, museums, menageries, equestrian performances, horoscopic views, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, billiard tables, pool tables and other tables, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, tipping houses, and sales of unclaimed goods by express companies or common carriers, auto wrecking shops and junk dealers; to license, tax and regulate hackmen, draymen, omnibus drivers, porters and all others pursuing like occupations, with or without vehicles, and to prescribe their compensation; and to regulate, license and restrain runners for steamboats, cars, and public houses; and to license ferries, and to regulate the same and the landing thereof within the limits of the city, and to license and tax auto liveries, auto drays and jitneys.

2. Notwithstanding any other law to the contrary, no city of the fourth classification with more than eight hundred but less than nine hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of twenty-seven dollars per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of that amount, and any license fee in such city that exceeds the limitations of this subsection shall automatically be reduced to comply with this subsection.

3. Notwithstanding any other law to the contrary, no city of the fourth classification with more than four thousand one hundred but less than four thousand two hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of thirteen dollars and fifty cents per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of that amount, and any license fee in such city that exceeds the limitations of this subsection shall automatically be reduced to comply with this subsection.

94.578. SALES TAX AUTHORIZED IN CERTAIN CITIES (SPRINGFIELD), RATE, USE OF FUNDS, BONDS AUTHORIZED — BALLOT, EFFECTIVE DATE — ADMINISTRATION, DEPOSIT OF REVENUE — USE OF FUNDS UPON ABOLISHMENT — REPEAL. — 1. In addition to the sales tax authorized in section 94.577, the governing body of any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants is hereby authorized to impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144, RSMo. The tax authorized in this section may be imposed at a rate of one-eighth, one-fourth, three-eighths, or one-half of one percent, but shall not exceed one-half of one percent, shall not be imposed for longer than three years, and shall be imposed solely for the purpose of funding the construction, operation, and maintenance of capital improvements in the city's center city. The governing body may issue bonds for the funding of such capital improvements, which will be retired by the revenues received from the sales tax authorized by this section. The order or ordinance shall not become effective unless the governing body of the city submits to the voters residing within the city at a state or municipal general, primary, or special election a proposal to authorize the

governing body of the city to impose a tax under this section. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. The ballot submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city) impose a sales tax at a rate of(insert rate of percent) percent for a capital improvements purposes in the city's center city for a period of (insert number of years, not to exceed three) years?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the sales tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question. In no case shall a tax be resubmitted to the qualified voters of the city sooner than twelve months from the date of the proposal under this section.

3. Any sales tax imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of revenue of the action at least ninety days before the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director of revenue shall remit the balance in the account to the city and close the account of that city. The director of revenue shall notify each city of each instance of any amount refunded.

5. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for capital improvements purposes in the city's center city?

☐ YES ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

99.1000. DEFINITIONS. — As used in sections 99.1000 to 99.1060, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Authority", the rural economic stimulus authority for a municipality, created pursuant to section 99.1006;

(2) "Baseline year", the calendar year prior to the adoption of an ordinance by the municipality approving a development project;

(3) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes, economic activity taxes other than economic activity taxes which are local sales taxes, and other local taxes other than local sales taxes, and, for local sales taxes and state taxes, the director of revenue;

(4) "Development area", an area designated by a municipality which area shall have the following characteristics:

(a) It includes only those parcels of real property directly and substantially benefited by the proposed development plan;

(b) It can be renovated through one or more development projects;

(c) It is contiguous, provided, however that a development area may include up to three noncontiguous areas selected for development projects, provided that each noncontiguous area meets the requirements of paragraphs (a) and (b) of this subdivision; and

(d) The development area shall not exceed ten percent of the entire area of the municipality.

Subject to the limitation set forth in this subdivision, the development area can be enlarged or modified as provided in section 99.1036;

(5) **"Development facility", a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product;**

(6) "Development plan", the comprehensive program of a municipality and to thereby enhance the tax bases of the taxing districts which extend into the development area through the reimbursement, payment, or other financing of development project costs in accordance with sections 99.1000 to 99.1060 and through the exercise of the powers set forth in sections 99.1000 to 99.1060. The development plan shall conform to the requirements of section 99.1027;

[(6)] (7) "Development project", any development project within a development area which creates a renewable fuel production facility **or eligible new generation processing entity**, and any such development project shall include a legal description of the area selected for such development project;

[(7)] (8) "Development project area", the area located within a development area selected for a development project;

[(8)] (9) "Development project costs" include such costs to the development plan or a development project, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure to support a development project. Such costs shall only be allowed as an initial expense which, to be recoverable, must be included in the costs of a development plan or development project, except in circumstances of plan

amendments approved by the Missouri agricultural and small business development authority and the department of economic development. Such infrastructure costs include, but are not limited to, the following:

- (a) Costs of studies, appraisals, surveys, plans, and specifications;
- (b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;
- (c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;
- (d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;
- (e) Costs of construction of public works or improvements;
- (f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one or more development projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;
- (g) All or a portion of a taxing district's capital costs resulting from any development project necessarily incurred or to be incurred in furtherance of the objectives of the development plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;
- (h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a development project;
- (i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development, the agricultural and small business development authority, and the department of revenue in evaluating an application for and administering state supplemental rural development financing for a development project; and
- (j) Endowment of positions at an institution of higher education which has a designation as a Carnegie Research I University including any campus of such university system, subject to the provisions of section 99.1043;

[(9)] **(10)** "Economic activity taxes", the total additional revenue from taxes which are imposed by the municipality and other taxing districts, and which are generated by economic activities within each development project area which exceed the amount of such taxes generated by economic activities within such development project area in the baseline year; but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special assessments. If a retail establishment relocates within one year from one facility to another facility within the same county and the municipality or authority finds that the retail establishment is a direct beneficiary of development financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from taxes which are imposed by the municipality and other taxing districts which are generated by economic activities within the development project area which exceed the amount of taxes which are imposed by the municipality and other taxing districts which are generated by economic activities within the development project area generated by the retail establishment in the baseline year;

(11) "Eligible new generation processing entity", as defined in section 348.432, RSMo;

[(10)] **(12)** "Major initiative", a development project that:

- (a) Promotes the development of a facility producing either a good derived from an agricultural commodity or using a process to produce a good derived from an agricultural product, the estimated cost of which is in excess of the amount set forth below for the municipality, as applicable; or
-

(b) Promotes business location or expansion, the estimated cost of which is in excess of the amount set forth below for the municipality, and is estimated to create at least as many new jobs as set forth below within three years of such location or expansion:

Population of	Estimated New Jobs
Municipality	Project Cost Created
99,999 or less	\$3,000,000 at least 30;

[(11)] **(13)** "Municipality", any city, village, incorporated town, or any county of this state established on or prior to January 1, 2001;

[(12)] **(14)** "New job", any job defined as a new job pursuant to subdivision (10) of section 100.710, RSMo;

[(13)] **(15)** "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the municipality or authority, or other public entity authorized to issue such obligations pursuant to sections 99.1000 to 99.1060 to carry out a development project or to refund outstanding obligations;

[(14)] **(16)** "Ordinance", an ordinance enacted by the governing body of any municipality or an order of the governing body of such a municipal entity whose governing body is not authorized to enact ordinances;

[(15)] **(17)** "Other net new revenues", the amount of state sales tax increment or state income tax increment or the combination of the amount of each such increment as determined under section 99.1045;

[(16)] **(18)** "Payment in lieu of taxes", those revenues from real property in each development project area, which taxing districts would have received had the municipality not adopted a development plan and the municipality not adopted development financing, and which would result from levies made after the time of the adoption of development financing during the time the current equalized value of real property in such development project area exceeds the total equalized value of real property in such development project area during the baseline year until development financing for such development project area expires or is terminated pursuant to sections 99.1000 to 99.1060;

[(17)] **(19)** "Renewable fuel production facility", a facility producing an energy source which is derived from a renewable, domestically grown, organic compound capable of powering machinery, including an engine or power plant, and any by-product derived from such energy source;

[(18)] **(20)** "Special allocation fund", the fund of the municipality or its authority required to be established pursuant to section 99.1042 which special allocation fund shall contain at least four separate segregated accounts into which payments in lieu of taxes are deposited in one account, economic activity taxes are deposited in a second account, other net new revenues are deposited in a third account, and other revenues, if any, received by the authority or the municipality for the purpose of implementing a development plan or a development project are deposited in a fourth account;

[(19)] **(21)** "State income tax increment", the estimate of the income tax due the state for salaries or wages paid to new employees in new jobs at a business located in the development project area and created by the development project. The estimate shall be a percentage of the gross payroll which percentage shall be based upon an analysis by the department of revenue of the practical tax rate on gross payroll as a factor in overall taxable income. In no event shall the percentage exceed two percent;

[(20)] **(22)** "State sales tax increment", the incremental increase in the state sales tax revenue in the development project area. In no event shall the incremental increase include any amounts attributable to retail sales unless the Missouri agricultural and small business development authority and the department of economic development are satisfied based on the information provided by the municipality or authority, and such entities have made a finding that a substantial portion of all but a de minimus portion of the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. In

addition, the incremental increase for an existing facility shall be the amount by which the state sales tax revenue generated at the facility exceeds the state sales tax revenue generated at the facility in the baseline year. The incremental increase for a Missouri facility which relocates to a development project area shall be the amount by which the state sales tax revenue of the facility exceeds the state sales tax revenue for the facility in the calendar year prior to relocation;

[(21)] (23) "State sales tax revenues", the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law;

[(22)] (24) "Taxing districts", any political subdivision of this state having the power to levy taxes; and

[(23)] (25) "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from a development project.

99.1018. AUTHORITY TO BE PUBLIC BODY CORPORATE AND POLITIC, POWERS — DISCLOSURE OF CONFLICTS OF INTEREST. — 1. The authority created pursuant to section 99.1006 shall constitute a public body corporate and politic, exercising public and essential governmental functions.

2. A municipality or an authority created pursuant to section 99.1006 shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of sections 99.1000 to 99.1060, including the following powers in addition to others granted pursuant to sections 99.1000 to 99.1060:

(1) To prepare or cause to be prepared and approve development plans and development projects to be considered at public hearings in accordance with sections 99.1000 to 99.1060 and to undertake and carry out development plans and development projects which have been adopted by ordinance;

(2) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, streets, roads, public utilities, or other facilities for or in connection with any development project; and notwithstanding anything to the contrary contained in sections 99.1000 to 99.1060 or any other provision of law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of any development project, and to include in any contract let in connection with any such development project provisions to fulfill such of the conditions as it may deem reasonable and appropriate;

(3) Within a development area, to acquire by purchase, lease, gift, grant, bequest, devise, obtain options upon, or otherwise acquire any real or personal property or any interest therein, necessary or incidental to a development project, all in the manner and at such price as the municipality or authority determines is reasonably necessary to achieve the objectives of a development plan;

(4) Within a development area, subject to provisions of section 99.1021 with regard to the disposition of real property, to sell, lease, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property or any interest therein, all in the manner and at such price and subject to any covenants, restrictions, and conditions as the municipality or authority determines is reasonably necessary to achieve the objectives of a development plan; to make any such covenants, restrictions, or conditions as covenants running with the land, and to provide appropriate remedies for any breach of any such covenants, restrictions, or conditions, including the right in the municipality or authority to terminate such contracts and any interest in the property created pursuant thereto;

(5) Within a development area, to clear any area by demolition or removal of existing buildings and structures;

(6) To install, repair, construct, reconstruct, or relocate streets, utilities, and site improvements as necessary or desirable for the preparation of a development area for use in accordance with a development plan;

(7) Within a development area, to fix, charge, and collect fees, rents, and other charges for the use of any real or personal property, or any portion thereof, in which the municipality or authority has any interest;

(8) To accept grants, guarantees, and donations of property, labor, or other things of value from any public or private source for purposes of implementing a development plan;

(9) In accordance with section 99.1021, to select one or more developers to implement a development plan, or one or more development projects, or any portion thereof;

(10) To charge as a development project cost the reasonable costs incurred by the municipality or authority, the department of economic development, the Missouri [development finance board] **agricultural and small business development authority**, or the department of revenue in evaluating, administering, or implementing the development plan or any development project;

(11) To borrow money and issue obligations in accordance with sections 99.1000 to 99.1060 and provide security for any such loans or obligations;

(12) To insure or provide for the insurance of any real or personal property or operations of the municipality or authority against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of sections 99.1000 to 99.1060;

(13) Within a development area, to renovate, rehabilitate, own, operate, construct, repair, or improve any improvements, buildings, parking garages, fixtures, structures, and other facilities;

(14) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem obligations at the redemption price established therein or to purchase obligations at less than redemption price, all obligations so redeemed or purchased to be canceled;

(15) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, state, county, municipality, or other public body or from any sources, public or private, for the purposes of implementing a development plan, to give such security as may be required and to enter into and carry out contracts in connection therewith. A municipality or authority, notwithstanding the provisions of any other law, may include in any contract for financial assistance with the federal government for a project such conditions imposed pursuant to federal law as the municipality or authority may deem reasonable and appropriate and which are not inconsistent with the purposes of sections 99.1000 to 99.1060;

(16) To incur development project costs and make such expenditures as may be necessary to carry out the purposes of sections 99.1000 to 99.1060; and to make expenditures from funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;

(17) To loan the proceeds of obligations issued pursuant to sections 99.1000 to 99.1060 for the purpose of providing for the purchase, construction, extension, or improvement of public infrastructure related to a development project by a developer pursuant to a development contract approved by the municipality or authority in accordance with subdivision (2) of section 99.1021;

(18) To declare any funds, or any portion thereof, in the special allocation fund to be excess funds, so long as such excess funds have not been pledged to the payment of outstanding obligations or outstanding development project costs, are not necessary for the payment of development project costs incurred or anticipated to be incurred, and are not required to pay baseline state sales taxes and baseline state withholding taxes to the director of revenue. Any

such funds deemed to be excess shall be disbursed in the manner of surplus funds as provided in section 99.1051;

(19) To pledge or otherwise expend funds deposited to the special allocation fund, or any portion thereof, for the payment or reimbursement of development project costs incurred by the authority, the municipality, a developer selected by the municipality or authority, or any other entity with the consent of the municipality or authority; to pledge or otherwise expend funds deposited to the special allocation fund, or any portion thereof, or to mortgage or otherwise encumber its property, or any portion thereof, for the payment of obligations issued to finance development project costs; provided, however, any such pledge or expenditure of economic activity taxes or other net new revenues shall be subject to annual appropriation by the municipality; and

(20) To exercise all powers or parts or combinations of powers necessary, convenient, or appropriate to undertake and carry out development plans and any development projects and all the powers granted pursuant to sections 99.1000 to 99.1060, excluding powers of eminent domain.

3. If any member of the governing body of the municipality, a commissioner of the authority, or an employee or consultant of the municipality or authority, involved in the planning and preparation of a development project, owns or controls an interest, direct or indirect, in any property included in a development project area, the individual shall disclose the same in writing to the clerk of the municipality, and shall also so disclose the dates, terms, and conditions of any disposition of any such interest, which disclosures shall be acknowledged by the governing body of the municipality and entered upon the minutes books of the governing body of the municipality. If an individual holds such an interest, then that individual shall refrain from any further official involvement in regard to a development project and from voting on any matter pertaining to such development project or communicating with other commissioners or members of the authority or the municipality concerning any matter pertaining to such development project. Furthermore, subject to the succeeding sentence, no such member, commissioner, employee, or consultant shall acquire any interest, direct or indirect, in any property in a development project area or proposed development project area after either such individual obtains knowledge of a development project, or first public notice of such development project, or development project area pursuant to subsection 2 of section 99.1036, whichever first occurs. At any time after one year from the adoption of an ordinance designating a development project area, any commissioner may acquire an interest in real estate located in a development project area so long as any such commissioner discloses such acquisition and refrains from voting on any matter related to the development project area in which the property acquired by such commissioner is located.

4. An authority created pursuant to section 99.1006 shall have the following powers in addition to others granted pursuant to sections 99.1000 to 99.1060:

(1) To sue and to be sued; to have a seal and to alter the same at the authority's pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with sections 99.1000 to 99.1060, to carry out the provisions of sections 99.1000 to 99.1060;

(2) To delegate to a municipality or other public body any of the powers or functions of the authority with respect to the planning or undertaking of a development project, and any such municipality or public body is hereby authorized to carry out or perform such powers or functions for the authority;

(3) To receive and exercise powers delegated by any authority, agency, or agent of a municipality created pursuant to this chapter or chapter 353, RSMo, excluding powers of eminent domain.

100.255. DEFINITIONS. — As used in sections 100.250 to 100.297, the following terms mean:

- (1) "Board", the Missouri development finance board created by section 100.265;
- (2) "Borrower", any person, partnership, public or private corporation, association, development agency or any other entity eligible for funding under sections 100.250 to 100.297;
- (3) "Development agency", any of the following:
 - (a) A port authority established pursuant to chapter 68, RSMo;
 - (b) The bi-state development agencies established pursuant to sections 70.370 to 70.440, RSMo, and sections 238.010 to 238.100, RSMo;
 - (c) A land clearance for redevelopment authority established pursuant to sections 99.300 to 99.660, RSMo;
 - (d) A county, city, incorporated town or village or other political subdivision or public body of this state;
 - (e) A planned industrial expansion authority established pursuant to sections 100.300 to 100.620;
 - (f) An industrial development corporation established pursuant to sections 349.010 to 349.105, RSMo;
 - (g) A real property tax increment financing commission established pursuant to sections 99.800 to 99.865, RSMo;
 - (h) Any other governmental, quasi-governmental or quasi-public corporation or entity created by state law or by resolution adopted by the governing body of a development agency otherwise described in paragraphs (a) through (g) of this subdivision;
- (4) "Development and reserve fund", the industrial development and reserve fund established pursuant to section 100.260;
- (5) "Export finance fund", the Missouri export finance fund established pursuant to section 100.260;
- (6) "Export trade activities" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication, and processing of foreign orders to and for exporters and foreign purchases and warehousing, when undertaken to export or facilitate the export of goods or services produced or assembled in this state;
- (7) "Guarantee fund", the industrial development guarantee fund established by section 100.260;
- (8) "Infrastructure development fund", the infrastructure development fund established under section 100.263;
- (9) "Infrastructure facilities", the highways, streets, bridges, water supply and distribution systems, mass transportation facilities and equipment, telecommunication facilities, jails and prisons, sewers and sewage treatment facilities, wastewater treatment facilities, airports, railroads, reservoirs, dams and waterways in this state, acquisition of blighted real estate and the improvements thereon, demolition of existing structures and preparation of sites in anticipation of development, public facilities, and any other improvements provided by any form of government or development agency;
- (10) "Jobs now fund", the jobs now fund established under section 100.260;
- (11) "Jobs now projects", the purchase, construction, extension, and improvement of real estate, plants, buildings, structures, or facilities, whether or not now in existence, used or to be used primarily as infrastructure facilities or public facilities. When any entity provides a certified design or operation plan which is demonstrably less than the usual and customary average industry determination of cost for installation, construction, purchasing, extension, and improvement of real estate, manufacturing facilities, buildings, structures or facilities, including public facilities, then the entity or company providing such service may receive payment in an amount equal to the usual and customary fee for

such project plus additional compensation equal to two times the percentage by which the cost of such aforementioned criteria of such facility is less than the usual and customary average industrial determination of cost for installation, construction, materials, extension and improvement of real estate, manufacturing facilities, buildings, structures, or facilities, including public facilities. Such entity shall also pay to such company providing such aforementioned service compensation equal to twenty-five percent of the amount of any annual operational costs which are lower than the customary average industry determination of cost for operation for such facility, procedure, or service for a period of time equal to one-fourth the design lifetime of such entity or five years whichever is less;

(12) "Participating lender", a lender authorized by the board to participate with the board in the making of a loan or to make loans the repayment of which is secured by the development and reserve fund;

[(11)] (13) "Project", the purchase, construction, extension, and improvement of real estate, plants, buildings, structures or facilities, whether or not now in existence, used or to be used primarily as a factory, assembly plant, manufacturing plant, fabricating plant, distribution center, warehouse building, office building, port terminal or facility, transportation and transfer facility, industrial plant, processing plant, commercial or agricultural facility, nursing or retirement facility or combination thereof, recreational facility, cultural facility, public facilities, job training or other vocational training facility, infrastructure facility, video-audio telecommunication conferencing facility, office building, facility for the prevention, reduction, disposal or control of pollution, sewage or solid waste, facility for conducting export trade activities, or research and development building in connection with any of the facilities defined as a project in this subdivision. The term "project" shall also include any improvements, including, but not limited to, road or rail construction, alteration or relocation, and construction of facilities to provide utility service for any of the facilities defined as a project under this subdivision, along with any fixtures, equipment, and machinery, and any demolition and relocation expenses used in connection with any such projects and any capital used to promote and facilitate such facilities and notes payable from anticipated revenue issued by any development agency;

[(12)] (14) "Public facility", any facility or improvements available for use by the general public including facilities for which user or other fees are charged on a nondiscriminatory basis;

100.260. FUNDS ESTABLISHED — ADMINISTRATION, INVESTMENT — NO TRANSFER TO GENERAL REVENUE, WHEN — INCREASE OF CERTAIN REVENUE CALCULATED AND ALLOCATED TO JOBS NOW FUND. — 1. There are hereby created [three] **four** special funds, to be known as the "Industrial Development and Reserve Fund" [and], the "Industrial Development Guarantee Fund", [and] the "Export Finance Fund", **and the "Jobs Now Fund"**, into which the following may be deposited as and when received and designated for deposit in one of such funds:

(1) Any moneys appropriated by the general assembly for use by the board in carrying out the powers set forth in sections 100.250 to 100.297;

(2) Any moneys made available through the issuance of revenue bonds under the provisions of sections 100.250 to 100.295;

(3) Any moneys received from grants or which are given, donated, or contributed to the fund from any source;

(4) Any moneys received in repayment of loans or from application fees, reserve participation fees, guarantee fees and premium payments as provided for under sections 100.250 to 100.297;

(5) Any moneys received as interest on deposits or as income on approved investments of the fund;

(6) Any moneys obtained from the issuance of revenue bonds or notes by the board;

(7) Any moneys that were in the industrial development fund authorized by this section, the economic development reserve authorized by section 620.215, RSMo, or the industrial

revenue bond guarantee fund authorized by section 620.240, RSMo, respectively, as of September 28, 1985; and

(8) Any moneys obtained from any other available source.

2. The development and reserve fund, the guarantee fund, **the jobs now fund**, and the export finance fund shall be administered by the board as provided in sections 100.250 to 100.297. Separate accounts may be created within the development and reserve fund and the guarantee fund for moneys specifically appropriated, donated or otherwise received for industrial development purposes. The board may also create such other separate accounts within **any of** such funds as deemed necessary or appropriate by the board to carry out the duties and purposes of sections 100.250 to 100.297. All such separate accounts may be administered by a corporate trustee on behalf of the board upon the terms and conditions established by the board.

3. Moneys in the **jobs now fund**, the development and reserve fund, the guarantee fund, and the export finance fund shall be invested by the board in the manner prescribed by the board and any interest earned on invested moneys shall accrue to the benefit of the respective fund.

4. **None of the funds and accounts of the board shall be considered a state fund, and money deposited therein may not be appropriated therefrom, nor shall any money deposited therein be subject** to the provisions of section 33.080, RSMo[, to the contrary notwithstanding, the development and reserve fund, the guarantee fund and the export finance fund, including any moneys in any of such funds appropriated by the general assembly, shall not lapse at the end of the biennium and the balance shall not be transferred to the general revenue fund].

5. **The commissioner of administration shall annually calculate the increased amount of revenue to the state treasury due to the provisions of sections 135.155, 135.286, 135.546, and subsection 7 of section 620.1039, RSMo, as enacted or modified by this act and shall allocate up to twelve million dollars of such revenue to the jobs now fund.**

100.270. BOARD'S POWERS AND DUTIES — RULES, AUTHORITY TO PROMULGATE. —

The board shall have the power to:

- (1) Sue and be sued in its official name;
- (2) Adopt and use an official seal;
- (3) Confer with agencies of the state and development agencies, and with representatives of business, industry, and labor for the purpose of promoting the economic development of this state;
- (4) Consider and review applications for loans to be made from the development and reserve fund or for loans, bonds or notes to be made by or secured by the development and reserve fund, the guarantee fund, the export finance fund or the infrastructure development fund or any other available money, under sections 100.250 to 100.297, **and for grants or loans to be made by or secured by the jobs now fund**;
- (5) Enter into agreements with development agencies, borrowers, participating lenders and others to implement any of the provisions of sections 100.250 to 100.297;
- (6) Direct disbursements from the development and reserve fund, the guarantee fund, the export finance fund, [and] the infrastructure development fund, **and the jobs now fund** as provided in sections 100.250 to 100.297;
- (7) Administer the development and reserve fund, the guarantee fund, the export finance fund, [and] the infrastructure development fund, **and the jobs now fund** and invest any portion of such funds not required for immediate disbursement in obligations of the United States, or any agency or instrumentality of the United States, in obligations of the state of Missouri and its political subdivisions, in certificates of deposit and time deposits or other obligations of banks and savings and loan associations or in such other obligations as may be prescribed by the board;
- (8) Apply for and accept gifts, grants, appropriations, loans or contributions to the development and reserve fund, the guarantee fund, the export finance fund, [and] the infrastructure development fund, **and the jobs now fund** from any source, public or private, and

enter into contracts or other transactions with any federal or state agency, any development agency, private organization, or any other source in furtherance of the purposes of sections 100.250 to 100.297, and do any and all things necessary in order to avail itself of such aid and cooperation;

(9) Issue, from time to time, its negotiable revenue bonds or notes in such principal amounts as, in its opinion, shall be necessary to provide sufficient funds for achieving its purposes;

(10) Establish reserves to secure bonds, notes and loans issued or made by the board, development agencies or participating lenders;

(11) Make, purchase, or participate in the making or purchase, of loans, bonds, or notes to finance the costs of projects;

(12) Procure insurance, letters of credit, or other form of credit enhancement, to secure the payment of principal and interest on any loans, bonds or notes or other obligations of the board;

(13) Purchase, receive, take by grant, gift, devise, bequest or otherwise, lease, or otherwise acquire, own, hold, improve, employ, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

(14) Sell, convey, lease, exchange, transfer or otherwise dispose of, all or any of its property, or any interest therein, wherever situated;

(15) Conduct hearings and other methods of examination, and authorize any of its members to do so, on any matter material for its information and necessary to the exercise of the duties of the board;

(16) Employ and fix the compensation of an executive director and such other agents or employees as it considers necessary;

(17) Adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business may be transacted;

(18) Assess or charge a fee for each application it receives for funding for a project **or a jobs now project** and assess or charge other fees as the board determines to be reasonable to carry out its purposes, including, but not limited to, fees or premiums for loans made from the development and reserve fund and the export finance fund and for loans, bonds or notes secured by the development and reserve fund, the guarantee fund, the export finance fund or the infrastructure development fund **or the jobs now fund**;

(19) Make all expenditures which are incident and necessary to carry out its purposes and powers;

(20) Take such action, enter into such agreements and exercise all other powers and functions necessary or appropriate to carry out the duties and purposes set forth in sections 100.250 to 100.297;

(21) Insure, coinsure, guarantee loans and make loans relating to qualified export transactions and adopt criteria, by means of rules and regulations, establishing which exporters shall be eligible for the insurance, coinsurance, loan guarantees and loans which may be extended by the board;

(22) Do all things necessary to ensure full participation by the state of Missouri in any federal program which may relate to the construction, repair, replacement or further development of the infrastructure of the state and its political subdivisions;

(23) Receive funds from the federal government for deposit into the infrastructure development fund **or the jobs now fund** and authorize disbursements therefrom [in accordance with appropriations]. The board may enter into agreements with agencies of the federal government and may, on behalf of the state of Missouri, do all things necessary to ensure full participation by the state of Missouri in any federal program which may relate to the repair, replacement or further development of the infrastructure of the state and its political subdivisions;

(24) Set guidelines and priorities for loans, loan guarantees or grants from the infrastructure development fund. The board is the sole state agency authorized to set such guidelines and priorities with respect to the infrastructure development fund on behalf of the state or any of its

political subdivisions, and loans, loan guarantees, or grants shall only be made upon approval of the board;

(25) Make equity investments in or otherwise acquire ownership interests in: for-profit and not-for-profit federal- or state-authorized community development corporations; small business investment companies, including minority or specialized small business investment companies; and microloan corporations and similar lending institutions, when such investments are deemed to enhance the benefit of the public; [and]

(26) Make investments in Missouri certified capital companies, as defined by subdivision (7) of subsection 2 of section 135.500, RSMo, or other investment companies for investment in qualified Missouri businesses, as defined by subdivision (14) of subsection 2 of section 135.500, RSMo. All investments made by the board for the eventual investment in qualified Missouri businesses shall be matched by an equivalent investment made by the certified capital company or other investment firm for investment into qualified Missouri businesses. All investments made into Missouri qualified businesses under the provisions of this subdivision shall be in the form of equity or unsecured debt financing. No investment shall be made by the board under the provisions of this subdivision without the approval of the director of the department of economic development; and

(27) **Make loans and grants from the jobs now fund in accordance with the provisions of section 100.293.**

100.277. EMPLOYMENT AND BUSINESS OPPORTUNITIES REQUIRED TO BE PROVIDED, TO WHOM. — Funds expended for projects authorized in sections 100.255 to 100.293, shall provide appropriate employment and business opportunities for participation by minority, women, and disadvantaged business enterprises in compliance with all state laws, rules, and regulations.

100.281. PROJECT PLAN, APPROVAL PROCEDURE — BOARD TO REVIEW AND GRANT LOAN, WHEN — BORROWING POWER — SALE OF BONDS. — 1. A request for a loan from the development and reserve fund, the infrastructure development fund or the export finance fund to fund export trade activities or to carry out a project shall be in the form of an application for the project to the board, which application shall be in such form as the board may specify. After reviewing the application and such other information as the board may require, the board may grant all or a part of the loan request, provided the board determines that:

- (1) The project will be a benefit to the economy or infrastructure of the state;
- (2) The project will generate sufficient revenues or the borrower will otherwise have sufficient revenues available to enable the borrower to repay the loan to the development and reserve fund, the infrastructure development fund or the export finance fund, along with any interest to be charged; and
- (3) In the case of an infrastructure facility project, the loan will not exceed ten million dollars.

2. [When the board makes a loan under the provisions of sections 100.250 to 100.297, copies of all documents filed in support of the loan application and copies of all agreements, notes, evidence of debts, or security agreements connected with such loan may be forwarded to the department of economic development, and if so forwarded, that department shall thereafter be responsible for the administration of such agreements; but the board shall not transfer or assign any of its interests under any of such agreements to the department of economic development. In the event of a substantial default in the terms of any such agreements, the department of economic development shall notify the board in order that the board may take whatever steps it deems necessary to protect its interests.

3.] Notwithstanding any other provision of law to the contrary, all development agencies, as defined in section 100.255, shall have the power to borrow funds from the board for any project, to contract with the board, and to furnish a security interest in any of their revenues or

properties to the board to secure a loan from the board and to issue notes in evidence thereof upon such terms as such development agencies shall determine.

[4.] 3. When the board issues bonds to provide loans for more than one infrastructure project, the board shall make a reasonable effort to sell the bonds to a purchaser that represents a group consisting of more than one underwriter.

100.293. CITATION — JOBS NOW RECOMMENDATION COMMITTEE CREATED, MEMBERSHIP, DUTIES — APPLICATIONS — PREFERENCE GIVEN TO CERTAIN PROJECTS — REQUESTS GRANTED, DETERMINATIONS REQUIRED. — 1. Sections 100.293 and 100.277, and sections 135.1050, 135.1055, 135.1057, 135.1060, 135.1065, 135.1070, 135.1075, and 135.1078, RSMo, and sections 178.980, 178.981, 178.982, 178.983, and 178.984, RSMo, shall be known and may be cited as the "Jobs Now Act".

2. There shall be created a "Jobs Now Recommendation Committee", comprised of representatives of the department of economic development, the department of agriculture, the department of natural resources, and the department of transportation. The committee shall establish application materials and procedures for development agencies to apply to the board for grants or low-interest or interest-free loans for the purpose of funding jobs now projects.

3. Applications shall be submitted simultaneously to the committee and the board. The committee shall review the applications and prepare and submit analyses and recommendations to the board for a determination as to approval or denial of grants or loans from the jobs now fund.

4. In reviewing applications, the board shall give preference to redevelopment projects that protect natural resources or rehabilitate existing dilapidated or inadequate infrastructure in areas defined under section 135.530, RSMo.

5. After reviewing applications and such other information as the board may require, the board may grant all or a part of a grant or loan request, provided the board determines:

- (1) The jobs now project:**
 - (a) Will not happen without the grant or loan from the board; or**
 - (b) Will have a significant local economic impact; or**
 - (c) Demonstrates high levels of job creation;**
- (2) In the case of a low-interest or interest-free loan, the jobs now project will generate sufficient revenues or the borrower will otherwise have sufficient revenues available to enable the borrower to repay the loan to the jobs now fund, along with any interest to be charged; and**
- (3) No loan or grant may exceed two million dollars.**

100.710. DEFINITIONS. — As used in sections 100.700 to 100.850, the following terms mean:

- (1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;**
 - (2) "Board", the Missouri development finance board as created by section 100.265;**
 - (3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;**
 - (4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;**
 - (5) "Department", the Missouri department of economic development;**
 - (6) "Director", the director of the department of economic development;**
 - (7) "Economic development project":**
-

(a) The acquisition of any real property by the board, the eligible industry, or its affiliate;
or

(b) The fee ownership of real property by the eligible industry or its affiliate; and

(c) For both paragraphs (a) and (b) of this subdivision, "economic development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

(8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project. For an essential industry, a person employed on a full-time basis in an existing job at the economic development project averaging at least thirty-five hours per week may be considered an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

(9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

(a) Invest a minimum of fifteen million dollars, or ten million dollars for an office industry, in an economic development project; and

(b) Create a minimum of one hundred new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo, **in the case of an approved company for a project for a world headquarters of a business whose primary function is tax return preparation in any home rule city with more than four hundred thousand inhabitants and located in more than one county, create a minimum of one hundred new jobs for eligible employees at the economic development project.** An industry that meets the definition of "essential industry" may be considered an eligible industry for the purposes of the program authorized by sections 100.700 to 100.850;

(10) "Essential industry", a business that otherwise meets the definition of eligible industry except an essential industry shall:

- (a) Be a targeted industry;
 - (b) Be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants;
 - (c) Have maintained at least two thousand jobs at the proposed economic development project site each year for a period of four years preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made and during the year in which said application is made;
 - (d) For the duration of the certificates, retain at the proposed economic development project site the level of employment that existed at the site in the taxable year immediately preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made; and
 - (e) Invest a minimum of five hundred million dollars in the economic development project by the end of the third year after the issuance of the certificates under this program;
- (11) "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state. For an essential industry, an existing job may be considered a new job for the purposes of the program authorized by sections 100.700 to 100.850;
- (12) "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;
- (13) "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:
- (a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;
 - (b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;
 - (e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and
 - (f) All other costs of a nature comparable to those described in this subdivision;
- (14) "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates;
- (15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

[100.850. ASSESSMENTS REMITTAL, JOB DEVELOPMENT ASSESSMENT FEE — COMPANY RECORDS AVAILABLE TO BOARD, WHEN — WHEN REMITTED ASSESSMENT CEASES — TAX CREDIT AMOUNT, CAP, CLAIMING CREDIT — REFUNDS. — 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic

development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million dollars annually.

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.]

100.850. ASSESSMENTS REMITTAL, JOB DEVELOPMENT ASSESSMENT FEE — COMPANY RECORDS AVAILABLE TO BOARD, WHEN — WHEN REMITTED ASSESSMENT CEASES — TAX CREDIT AMOUNT, CAP, CLAIMING CREDIT — REFUNDS. — 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed [eleven] **fifteen** million dollars annually.

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.

135.155. PROHIBITION ON CERTAIN ENTERPRISES RECEIVING CERTAIN INCENTIVES. — Notwithstanding any provision of the law to the contrary, no revenue-producing enterprise shall receive the incentives set forth in sections 135.100 to 135.150 for facilities commencing operations on or after January 1, 2005.

135.207. SATELLITE ZONES MAY BE ESTABLISHED IN CERTAIN CITIES OR VILLAGES, REQUIREMENTS. — 1. (1) Any city with a population of at least three hundred fifty thousand

inhabitants which is located in more than one county and any city not within a county, which includes an existing state designated enterprise zone within the corporate limits of the city may each, upon approval of the local governing authority of the city and the director of the department of economic development, designate up to three satellite zones within its corporate limits. A prerequisite for the designation of a satellite zone shall be the approval by the director of a plan submitted by the local governing authority of the city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(2) Any Missouri community classified as a village whose borders lie adjacent to a city with a population in excess of three hundred fifty thousand inhabitants as described in subdivision (1) of this subsection, and which has within the corporate limits of the village a factory, mining operation, office, mill, plant or warehouse which has at least three thousand employees and has an investment in plant, machinery and equipment of at least two hundred million dollars may, upon securing approval of the director and the local governing authorities of the village and the adjacent city which contains an existing state-designated enterprise zone, designate one satellite zone to be located within the corporate limits of the village, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(3) Any geographical area partially contained within any city not within a county and partially contained within any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, which area is comprised of a total population of at least four thousand inhabitants but not more than seventy-two thousand inhabitants, and which area consists of at least one fourth class city, and has within its boundaries a military reserve facility and a utility pumping station having a capacity of ten million cubic feet, may, upon securing approval of the director and the appropriate local governing authorities as provided for in section 135.210, be designated as a satellite zone, such zone to be in addition to the six authorized in subdivision (1) of this subsection.

(4) In addition to all other satellite zones authorized in this section, any home rule city with more than seventy-three thousand but less than seventy-five thousand inhabitants, which includes an existing state-designated enterprise zone within the corporate limits of the city, may, upon approval of the local governing authority of the city and director of the department of economic development, designate a satellite zone within its corporate limits. A prerequisite for the designation of a satellite zone pursuant to this subdivision shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of such city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(5) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants, which includes an existing state-designated enterprise zone within the corporate limits of the city, may, upon approval of the local governing authority of the city and director of the department of economic development, designate a satellite zone within its corporate limits along the southwest corner of any intersection of two United States interstate highways. A prerequisite for the designation of a satellite zone pursuant to this subdivision shall be the approval by the director of the department of economic development of a plan submitted by the local governing authority of such city describing how the satellite zone corresponds to the city's overall enterprise zone strategy.

(6) In addition to all other satellite zones authorized in this section, any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants which includes an existing state-designated enterprise zone within the corporate limits of the city may, upon approval of the governing authority of the city and the director of the department of economic development, designate one satellite zone within its corporate limits. No satellite zone shall be designated pursuant to this subdivision until the governing authority of the city submits a plan describing how the satellite zone corresponds to the city's overall enterprise zone strategy and the director approves the plan.

(7) In addition to all other satellite zones authorized in this section, any city of the fourth classification with more than three thousand eight hundred but less than four thousand inhabitants and located in more than one county and which city lies adjacent to any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants and which contains an enterprise zone may, upon approval of the director and the governing authorities of the city of the fourth classification and the home rule city, designate one satellite zone within its corporate limits. The satellite enterprise zone authorized by this subsection shall be designated only if it meets the criteria established by subsection 2 of this section. Retail businesses, as identified by the 1997 North American Industry Classification System (NAICS) sector numbers 44-45, located within the satellite enterprise zone shall be eligible for all benefits provided under the provisions of sections 135.200 to 135.258.

2. For satellite zones designated pursuant to the provisions of subdivisions (1) and (3) of subsection 1 of this section, the satellite zones, in conjunction with the existing state-designated enterprise zone shall meet the following criteria:

(1) The area is one of pervasive poverty, unemployment, and general distress, or one in which a large number of jobs have been lost, a large number of employers have closed, or in which a large percentage of available production capacity is idle. For the purpose of this subdivision, "large number of jobs" means one percent or more of the area's population according to the most recent decennial census, and "large number of employers" means over five;

(2) At least fifty percent of the residents living in the area have incomes below eighty percent of the median income of all residents within the state of Missouri according to the last decennial census or other appropriate source as approved by the director;

(3) The resident population of the existing state-designated enterprise zone and its satellite zones must be at least four thousand but not more than seventy-two thousand at the time of designation;

(4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than sixty percent of the statewide percentage of residents employed on a full-time basis.

3. A qualified business located within a satellite zone shall be subject to the same eligibility criteria and can be eligible to receive the same benefits as a qualified facility in sections 135.200 to [135.255] **135.258**.

135.212. ADDITIONAL ENTERPRISE ZONES TO BE DESIGNATED — CERTAIN ZONES NOT TO EXPIRE BEFORE CERTAIN DATE (LINN, MACON COUNTIES). — 1. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone in any county of the third classification without a township form of government and with more than thirty-two thousand five hundred but less than thirty-two thousand six hundred inhabitants. Such enterprise zone designations shall have the same boundaries as such county, and shall only be made if the area to be included in the enterprise zone meets all the requirements of section 135.205.

2. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than one thousand eight hundred but less than one thousand nine hundred inhabitants and located in three counties. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section 135.205.

3. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than one thousand but less than one thousand one hundred inhabitants and located in any county of the third classification without a township form of government and with more than forty-one thousand one hundred but less than forty-one thousand two hundred inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section 135.205.

4. In addition to any other enterprise zones authorized pursuant to this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any county of the third classification without a township form of government and with more than thirteen thousand seventy-five but less than thirteen thousand one hundred seventy-five inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section 135.205.

5. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone in the portions of any city of the fourth classification with more than three thousand eight hundred but less than four thousand inhabitants and located in more than one county and any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants which include a political subdivision that receives a portion of its funding from section 163.031, RSMo, and is located in part in any home rule city with more than four hundred thousand inhabitants and located in more than one county. Such enterprise zone shall only be made if the area to be included in the enterprise zone meets all the requirements of section 135.205.

6. In addition to any other enterprise zones authorized pursuant to this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than four thousand three hundred but less than four thousand five hundred located in a county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section 135.205.

7. In addition to any other enterprise zones authorized pursuant to this chapter, the department of economic development shall designate one enterprise zone that shall have boundaries that are the same as any city of the fourth classification with more than five thousand four hundred but less than five thousand five hundred inhabitants and located in more than one county. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section 135.205.

8. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone that shall be located partially in any city of the fourth classification with more than twelve thousand one hundred but less than twelve thousand four hundred inhabitants and partially in any city of the fourth classification with more than nine thousand six hundred but less than nine thousand seven hundred inhabitants and shall include all area in between any city of the fourth classification with more than twelve thousand one hundred but less than twelve thousand four hundred inhabitants and any city of the fourth classification with more than nine thousand six hundred but less than nine thousand seven hundred inhabitants with specific boundaries to be determined by the department of economic development in conjunction with the governing authority of the county. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section 135.205.

9. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one enterprise zone within any county of the third classification without a township form of government and with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants. Such enterprise zone designation shall only be made if the area that is to be included in the enterprise zone meets all the requirements of section 135.205.

10. Notwithstanding the provisions of section 135.230, to the contrary, any enterprise zone designated in any county of the third classification with a township form of government and with more than thirteen thousand seven hundred but less than thirteen thousand eight hundred inhabitants or designated in any county of the third classification without a township form of government and with more than fifteen thousand seven hundred but less than fifteen thousand eight hundred inhabitants shall not expire before December 31, 2015.

11. In addition to the number of enterprise zones authorized by the provisions of sections 135.200 to 135.270, the department of economic development shall designate one such zone in every county of the third classification without a township form of government and with more than six thousand seven hundred fifty but less than six thousand eight hundred fifty inhabitants. Such designation shall only be made if the area in the county which is to be included in the enterprise zone meets all the requirements of section 135.205.

12. In addition to the number of enterprise zones authorized by the provisions of this chapter the department of economic development shall designate one such zone in every city of the fourth classification with more than thirteen thousand six hundred but less than thirteen thousand eight hundred inhabitants which shall have boundaries abutting an international airport and an interstate highway with specific boundaries to be determined by the department of economic development in conjunction with the governing authority of the city. Such designation shall only be made if the area in the city which is to be included in the enterprise zone meets all the requirements of section 135.205.

13. In addition to any other enterprise zones authorized in this chapter, the department of economic development shall designate one such zone in a city of the fourth classification with more than thirty thousand three hundred but less than thirty thousand seven hundred inhabitants. Such enterprise zone shall only be made if the area to be included in the enterprise zone meets all the requirements of section 135.205.

135.215. REAL PROPERTY IMPROVEMENTS EXEMPTION FROM ASSESSMENT AND AD VALOREM TAXES — PROCEDURE — MAXIMUM PERIOD GRANTED — ABATEMENT OR EXEMPTION CEASES, WHEN. — 1. Improvements made to "real property" as such term is defined in section 137.010, RSMo, which are made in an enterprise zone subsequent to the date such zone or expansion thereto was designated, may upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions, provided that, except as to the exemption allowed under subsection 3 of this section, at least fifty new jobs that provide an average of at least thirty-five hours of employment per week per job are created and maintained at the new or expanded facility. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions or stipulations otherwise required. A copy of the resolution shall be provided the director within thirty calendar days following adoption of the resolution by the governing authority.

2. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified

mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date and purpose of the hearing.

3. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enterprise zone shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for assembling, fabricating, processing, manufacturing, mining, warehousing or distributing properties.

4. No exemption shall be granted for a period more than twenty-five years following the date on which the original enterprise zone was designated by the department **except for any enterprise zone within any home rule city with more than one hundred fifty-one thousand five hundred but less than one hundred fifty-one thousand six hundred inhabitants provided in any instance the exemption shall not be granted for a period longer than twenty-five years from the date on which the exemption was granted.**

5. The provisions of subsection 1 of this section shall not apply to improvements made to real property which have been started prior to August 28, 1991.

6. The mandatory abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all taxable property annually as required by section 99.855, RSMo, and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of section 99.845, RSMo, unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of section 99.820, RSMo.

7. Effective August 28, 2004, any abatement or exemption provided for in this section on an individual parcel of real property shall cease after a period of thirty days of business closure, work stoppage, major reduction in force, or a significant change in the type of business conducted at that location. For the purposes of this subsection, "work stoppage" shall not include strike or lockout or time necessary to retool a plant, and "major reduction in force" is defined as a seventy-five percent or greater reduction. Any owner or new owner may reapply, but cannot receive the abatement or exemption for any period of time beyond the original life of the enterprise zone.

135.262. ANY AREA MEETING ENTERPRISE ZONE REQUIREMENTS SHALL BE DESIGNATED AS SUCH. — In addition to the number of enterprise zones authorized under the provisions of sections 135.206 to 135.260, the department of economic development shall designate any area that meets all the requirements of section 135.205 as an enterprise zone.

135.286. REVENUE-PRODUCING ENTERPRISES NOT ELIGIBLE FOR CERTAIN TAX BENEFITS — TIME PERIOD OF EXEMPTIONS. — 1. Notwithstanding any provision of law to the contrary, no revenue-producing enterprise shall receive the state tax exemption, state tax credits, or state tax refund as provided in sections 135.200 to 135.283 for facilities commencing operations on or after January 1, 2005. This provision is not intended to affect in any way the local real property tax abatement authorized by section 135.215.

2. Notwithstanding subsection 4 of section 135.215 to the contrary, if an exemption pursuant to section 135.215 is granted on property prior to the expiration of the twenty-five year anniversary of the designation of the enterprise zone, the property may continue to receive that exemption for up to twenty-five years following the date the exemption on that property was granted, provided that the total number of years of exemption on that property shall not exceed twenty-five.

135.530. DISTRESSED COMMUNITY DEFINED. — For the purposes of sections 100.010, 100.710 and 100.850, RSMo, sections 135.110, 135.200, 135.258, 135.313, 135.403, 135.405, 135.503, 135.530 and 135.545, section 215.030, RSMo, sections 348.300 and 348.302, RSMo, and sections 620.1400 to 620.1460, RSMo, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the last decennial census, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least two thousand five hundred, and each block group having a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the last decennial census. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent of the median household income for the nonmetropolitan areas in Missouri according to the last decennial census or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred each block group having a median household income of under seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the last decennial census. **In metropolitan statistical areas, the definition shall include areas that were designated as either a federal empowerment zone; or a federal enhanced enterprise community; or a state enterprise zone that was originally designated before January 1, 1986, but shall not include expansions of such state enterprise zones done after March 16, 1988.**

135.546. TAX CREDITS FOR INVESTING IN THE TRANSPORTATION DEVELOPMENT OF A DISTRESSED COMMUNITY PROHIBITED, WHEN. — For all tax years beginning on or after January 1, 2005, no tax credits shall be approved, awarded, or issued to any person or entity claiming any tax credit under section 135.545; if an organization has been allocated credits for contribution-based credits prior to January 1, 2005, the organization may issue such credits prior to January 1, 2007, for qualified contributions.

135.900. DEFINITIONS. — As used in sections 135.900 to 135.910, the following terms mean:

- (1) "Department", the department of economic development;
- (2) "Director", the director of the department of economic development;
- (3) "Earned income", all income not derived from retirement accounts, pensions, or transfer payments;
- (4) "New business facility", the same meaning as such term is defined in section 135.100; except that the term "lease" as used therein shall not include the leasing of property defined in paragraph (d) of subdivision (6) of this section;
- (5) "Population", all residents living in an area who are not enrolled in any course at a college or university in the area;
- (6) "Revenue-producing enterprise":
 - (a) Manufacturing activities classified as SICs 20 through 39;
 - (b) Agricultural activities classified as SIC 025;
 - (c) Rail transportation terminal activities classified as SIC 4013;
 - (d) Renting or leasing of residential property to low- and moderate-income persons as defined in 42 U.S.C.A. 5302(a)(20);
 - (e) Motor freight transportation terminal activities classified as SIC 4231;
 - (f) Public warehousing and storage activities classified as SICs 422 and 423 except SIC 4221, miniwarehouse warehousing and warehousing self-storage;
 - (g) Water transportation terminal activities classified as SIC 4491;
 - (h) Airports, flying fields, and airport terminal services classified as SIC 4581;
 - (i) Wholesale trade activities classified as SICs 50 and 51;

- (j) Insurance carriers activities classified as SICs 631, 632, and 633;
- (k) Research and development activities classified as SIC 873, except 8733;
- (l) Farm implement dealer activities classified as SIC 5999;
- (m) Employment agency activities classified as SIC 7361;
- (n) Computer programming, data processing, and other computer-related activities classified as SIC 737;
- (o) Health service activities classified as SICs 801, 802, 803, 804, 806, 807, 8092, and 8093;
- (p) Interexchange telecommunications service as defined in section 386.020, RSMo, or training activities conducted by an interexchange telecommunications company as defined in section 386.020, RSMo;
- (q) Recycling activities classified as SIC 5093;
- (r) Banking activities classified as SICs 602 and 603;
- (s) Office activities as defined in section 135.100, notwithstanding SIC classification;
- (t) Mining activities classified as SICs 10 through 14;
- (u) The administrative management of any of the foregoing activities; or
- (v) Any combination of any of the foregoing activities;
- (8) "SIC", the standard industrial classification as such classifications are defined in the 1987 edition of the standard industrial classification manual as prepared by the executive office of the president, office of management and budget;
- (9) "Transfer payments", payments made under Medicaid, Medicare, Social Security, child support or custody agreements, and separation agreements.

135.903. RURAL EMPOWERMENT ZONE CRITERIA — APPLICATION, ZONE CREATED, REAPPLICATION — LIMITATION. — 1. To qualify as a rural empowerment zone, an area shall meet all the following criteria:

- (1) The area is one of pervasive poverty, unemployment, and general distress;
- (2) At least sixty-five percent of the population has earned income below eighty percent of the median income of all residents within the state according to the last decennial census or other appropriate source as approved by the director;
- (3) The population of the area is at least four hundred but not more than three thousand five hundred at the time of designation as a rural empowerment zone;
- (4) The level of unemployment of persons, according to the most recent data available from the division of employment security or from the United States Bureau of Census and approved by the director, within the area exceeds one and one-half times the average rate of unemployment for the state of Missouri over the previous twelve months, or the percentage of area residents employed on a full-time basis is less than fifty percent of the statewide percentage of residents employed on a full-time basis;
- (5) The area is situated more than ten miles from any existing rural empowerment zone;
- (6) The area is situated in a county of the third classification without a township form of government and with more than eight thousand nine hundred twenty-five but less than nine thousand twenty-five inhabitants; and
- (7) The area is not situated in an existing enterprise zone.

2. The governing body of any county in which an area may be designated a rural empowerment zone shall submit to the department an application showing that the area complies with the requirements of subsection 1 of this section. The department shall declare the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section. If the area is found not to meet the requirements, the governing body shall have the opportunity to submit another application for designation as a rural empowerment zone and the department shall designate the area a rural empowerment zone if upon investigation the department finds that the area meets the requirements of subsection 1 of this section.

3. There shall be no more than two rural empowerment zones as created under sections 135.900 to 135.910 in existence at any time.

135.910. TAXABLE INCOME OF CERTAIN ENTITIES EXEMPT, WHEN. — All of the Missouri taxable income attributed to a new business facility in a rural empowerment zone which is earned by a taxpayer establishing and operating a new business facility located within a rural empowerment zone shall be exempt from taxation under chapter 143, RSMo, if such new business facility is responsible for the creation of ten new full-time jobs in the zone within one year from the date on which the tax abatement begins. All of the Missouri taxable income attributed to a revenue-producing enterprise in a rural empowerment zone which is earned by a taxpayer operating a revenue-producing enterprise located within a rural empowerment zone and employing nineteen or fewer full-time employees shall be exempt from taxation under chapter 143, RSMo, if such revenue-producing enterprise is responsible for the creation of five new full-time jobs in the zone within one year from the date on which the tax abatement begins. All of the Missouri taxable income attributed to a revenue-producing enterprise in a rural empowerment zone which is earned by a taxpayer operating a revenue-producing enterprise located within a rural empowerment zone and employing twenty or more full-time employees shall be exempt from taxation under chapter 143, RSMo, if such revenue-producing enterprise is responsible for the creation of a number of new full-time jobs in the zone equal to twenty-five percent of the number of full-time employees employed by the revenue-producing enterprise on the date on which tax abatement begins within one year from the date on which the tax abatement begins.

135.911. EXPIRATION DATE. — The provisions of sections 135.900 to 135.910 shall expire on August 28, 2014.

135.1050. DEFINITIONS. — The following terms, whenever used in sections 135.1050 to 135.1075 mean:

(1) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(2) "Board", an enhanced enterprise zone board established pursuant to section 135.1057;

(3) "Commencement of commercial operations", shall be deemed to occur during the first taxable year for which the new business facility is first put into use by the taxpayer in the enhanced business enterprise in which the taxpayer intends to use the new business facility;

(4) "Department", the department of economic development;

(5) "Director", the director of the department of economic development;

(6) "Employee", a person employed by the enhanced business enterprise on:

(a) A regular, full-time basis;

(b) A part-time basis, provided such person is customarily performing such duties an average of at least twenty hours per week; or

(c) A seasonal basis, provided such person performs such duties for at least eighty percent of the season customary for the position in which such person is employed;

(7) "Enhanced business enterprise", an industry or one of a cluster of industries that is either:

(a) Identified by the department as critical to the state's economic security and growth; or

(b) Will have an impact on industry cluster development, as identified by the governing authority in its application for designation of an enhanced enterprise zone and approved by the department; but excluding gambling establishments (NAICS industry group 7132), retail trade (NAICS sectors 44 and 45) and food and drinking places (NAICS subsector 722). Service industries may be eligible only if a majority of its annual revenues will be derived from services provided out of the state.

(8) "Existing business facility", any facility in this state which was employed by the taxpayer claiming the credit in the operation of an enhanced business enterprise immediately prior to an expansion, acquisition, addition, or replacement;

(9) "Facility", any building used as an enhanced business enterprise located within an enhanced enterprise zone, including the land on which the facility is located and all machinery, equipment, and other real and depreciable tangible personal property acquired for use at and located at or within such facility and used in connection with the operation of such facility;

(10) "Governing authority", the body holding primary legislative authority over a county or incorporated municipality;

(11) "NAICS", the 1997 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS sector, subsector, industry group or industry identified in this section shall include its corresponding classification in subsequent federal industry classification systems;

(12) "New business facility", a facility that satisfies the following requirements:

(a) Such facility is employed by the taxpayer in the operation of an enhanced business enterprise. Such facility shall not be considered a new business facility in the hands of the taxpayer if the taxpayer's only activity with respect to such facility is to lease it to another person or persons. If the taxpayer employs only a portion of such facility in the operation of an enhanced business enterprise, and leases another portion of such facility to another person or persons or does not otherwise use such other portions in the operation of an enhanced business enterprise, the portion employed by the taxpayer in the operation of an enhanced business enterprise shall be considered a new business facility, if the requirements of paragraphs (b), (c), and (d) of this subdivision are satisfied;

(b) Such facility is acquired by, or leased to, the taxpayer after December 31, 2004. A facility shall be deemed to have been acquired by, or leased to, the taxpayer after December 31, 2004, if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer, or the commencement of the term of the lease to the taxpayer occurs after December 31, 2004;

(c) If such facility was acquired by the taxpayer from another taxpayer and such facility was employed immediately prior to the acquisition by another taxpayer in the operation of an enhanced business enterprise, the operation of the same or a substantially similar enhanced business enterprise is not continued by the taxpayer at such facility; and

(d) Such facility is not a replacement business facility, as defined in subdivision (16) of this section;

(13) "New business facility employee", an employee of the taxpayer in the operation of a new business facility during the taxable year for which the credit allowed by section 135.1070 is claimed, except that truck drivers and rail and barge vehicle operators and other operators of rolling stock for hire shall not constitute new business facility employees.

(14) "New business facility investment", the value of real and depreciable tangible personal property, acquired by the taxpayer as part of the new business facility, which is used by the taxpayer in the operation of the new business facility, during the taxable year

for which the credit allowed by 135.1070 is claimed, except that trucks, truck-trailers, truck semitrailers, rail vehicles, barge vehicles, aircraft and other rolling stock for hire, track, switches, barges, bridges, tunnels, and rail yards and spurs shall not constitute new business facility investments. The total value of such property during such taxable year shall be:

(a) Its original cost if owned by the taxpayer; or

(b) Eight times the net annual rental rate, if leased by the taxpayer. The net annual rental rate shall be the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the taxable year. If the new business facility is in operation for less than an entire taxable year, the new business facility investment shall be determined by dividing the sum of the total value of such property on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period;

(15) "Related taxpayer":

(a) A corporation, partnership, trust, or association controlled by the taxpayer;

(b) An individual, corporation, partnership, trust, or association in control of the taxpayer; or

(c) A corporation, partnership, trust or association controlled by an individual, corporation, partnership, trust or association in control of the taxpayer. "Control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, and "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust; ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

(16) "Replacement business facility", a facility otherwise described in subdivision (12) of this section, hereafter referred to in this subdivision as "new facility", which replaces another facility, hereafter referred to in this subdivision as "old facility", located within the state, which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first taxable year for which the credit allowed by this section is claimed. A new facility shall be deemed to replace an old facility if the following conditions are met:

(a) The old facility was operated by the taxpayer or a related taxpayer during the taxpayer's or related taxpayer's taxable period immediately preceding the taxable year in which commencement of commercial operations occurs at the new facility; and

(b) The old facility was employed by the taxpayer or a related taxpayer in the operation of an enhanced business enterprise and the taxpayer continues the operation of the same or substantially similar enhanced business enterprise at the new facility.

Notwithstanding the preceding provisions of this subdivision, a facility shall not be considered a replacement business facility if the taxpayer's new business facility investment, as computed in subdivision (14) of this section, in the new facility during the tax period for which the credits allowed in 135.1070 are claimed exceed one million dollars and if the total number of employees at the new facility exceeds the total number of employees at the old facility by at least two;

(17) "Same or substantially similar enhanced business enterprise", an enhanced business enterprise in which the nature of the products produced or sold, or activities conducted, are similar in character and use or are produced, sold, performed, or conducted in the same or similar manner as in another enhanced business enterprise.

135.1055. ENHANCED ENTERPRISE ZONE CRITERIA — ZONE MAY BE ESTABLISHED IN CERTAIN AREAS — ADDITIONAL CRITERIA. — 1. For purposes of sections 135.1050 to 135.1075, an area shall meet the following criteria in order to qualify as an enhanced enterprise zone:

(1) The area shall be a blighted area, have pervasive poverty, unemployment and general distress; and

(2) At least sixty percent of the residents living in the area have incomes below ninety percent of the median income of all residents:

(a) Within the state of Missouri, according to the last decennial census or other appropriate source as approved by the director; or

(b) Within the county or city not within a county in which the area is located, according to the last decennial census or other appropriate source as approved by the director; and

(3) The resident population of the area shall be at least five hundred but not more than one hundred thousand at the time of designation as an enhanced enterprise zone if the area lies within a metropolitan statistical area, as established by the United States Census Bureau, or if the area does not lie within a metropolitan statistical area, the resident population of the area at the time of designation shall be at least five hundred but not more than forty thousand inhabitants. If the population of the jurisdiction of the governing authority does not meet the minimum population requirements set forth in this subdivision, the population of the area must be at least fifty percent of the population of the jurisdiction. However, no enhanced enterprise zone shall be created which consists of the total area within the political boundaries of a county; and

(4) The level of unemployment of persons, according to the most recent data available from the United States Bureau of Census and approved by the director, within the area is equal to or exceeds the average rate of unemployment for:

(a) The state of Missouri over the previous twelve months; or

(b) The county or city not within a county over the previous twelve months.

2. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be established in an area located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100, RSMo, due to a natural disaster of major proportions, if the area to be designated is blighted and sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency. An application for designation as an enhanced enterprise zone pursuant to this subsection shall be made before the expiration of one year from the date the governor requested federal relief for the area sought to be designated.

3. Notwithstanding the requirements of subsection 1 of this section to the contrary, an enhanced enterprise zone may be designated in a "county of declining population" if it meets the requirements of subdivisions (1), (3) and either (2) or (4) of subsection 1 of this section. For the purposes of this subsection, a "county of declining population" is one that has lost one percent or more of its population as demonstrated by comparing the most recent decennial census population to the next most recent decennial census population for the county.

4. In addition to meeting the requirements of subsection 1, 2, or 3 of this section, an area, to qualify as an enhanced enterprise zone, shall be demonstrated by the governing authority to have either:

(1) The potential to create sustainable jobs in a targeted industry; or

(2) A demonstrated impact on local industry cluster development.

135.1057. ENHANCED ENTERPRISE ZONE BOARD REQUIRED, MEMBERS — TERMS — BOARD ACTIONS — CHAIR — ROLE OF BOARD. — 1. A governing authority planning to seek designation of an enhanced enterprise zone shall establish an enhanced enterprise zone board. The number of members on the board shall be seven. One member of the board shall be appointed by the school district or districts located within the area proposed for designation as an enhanced enterprise zone. One member of the board shall be appointed by other affected taxing districts. The remaining five members shall be chosen by the chief elected official of the county or municipality.

2. The school district member and the affected taxing district member shall each have initial terms of five years. Of the five members appointed by the chief elected official, two shall have initial terms of four years, two shall have initial terms of three years, and one shall have an initial term of two years. Thereafter, members shall serve terms of five years. Each commissioner shall hold office until a successor has been appointed. All vacancies shall be filled in the same manner as the original appointment. For inefficiency or neglect of duty or misconduct in office, a member of the board may be removed by the applicable appointing authority.

3. A majority of the members shall constitute a quorum of such board for the purpose of conducting business and exercising the powers of the board and for all other purposes. Action may be taken by the board upon a vote of a majority of the members present.

4. The members of the board annually shall elect a chair from among the members.

5. The role of the board shall be to conduct the activities necessary to advise the governing authority on the designation of an enhanced enterprise zone and any other advisory duties as determined by the governing authority. The role of the board after the designation of an enhanced enterprise zone shall be review and assessment of zone activities as it relates to the annual reports as set forth in section 135.1060.

135.1060. PUBLIC HEARING REQUIRED, NOTICE — PETITION, REQUIREMENTS — EFFECTIVE AND EXPIRATION DATE — ANNUAL REPORT. — 1. Any governing authority that desires to have any portion of a city or unincorporated area of a county under its control designated as an enhanced enterprise zone shall hold a public hearing for the purpose of obtaining the opinion and suggestions of those persons who will be affected by such designation. The governing authority shall notify the director of such hearing at least thirty days prior thereto and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by such designation at least twenty days prior to the date of the hearing but not more than thirty days prior to such hearing. Such notice shall state the time, location, date, and purpose of the hearing. The director, or the director's designee, shall attend such hearing.

2. After a public hearing is held as required in subsection 1 of this section, the governing authority may file a petition with the department requesting the designation of a specific area as an enhanced enterprise zone. Such petition shall include, in addition to a description of the physical, social, and economic characteristics of the area:

- (1) A plan to provide adequate police protection within the area;
- (2) A specific and practical process for individual businesses to obtain waivers from burdensome local regulations, ordinances, and orders which serve to discourage economic development within the area to be designated an enhanced enterprise zone, except that such waivers shall not substantially endanger the health or safety of the employees of any such business or the residents of the area;
- (3) A description of what other specific actions will be taken to support and encourage private investment within the area;
- (4) A plan to ensure that resources are available to assist area residents to participate in increased development through self-help efforts and in ameliorating any negative effects of designation of the area as an enhanced enterprise zone;

(5) A statement describing the projected positive and negative effects of designation of the area as an enhanced enterprise zone;

(6) A specific plan to provide assistance to any person or business dislocated as a result of activities within the enhanced enterprise zone. Such plan shall determine the need of dislocated persons for relocation assistance; provide, prior to displacement, information about the type, location, and price of comparable housing or commercial property; provide information concerning state and federal programs for relocation assistance and provide other advisory services to displaced persons. Public agencies may choose to provide assistance under the Uniform Relocation and Real Property Acquisition Act, 42 U.S.C. section 4601, et seq., to meet the requirements of this subdivision; and

(7) A description or plan that demonstrates the requirements of subsection 4 of section 135.1055.

3. An enhanced enterprise zone designation shall be effective upon such approval by the department and shall expire in twenty-five years.

4. Each designated enhanced enterprise zone board shall report to the director on an annual basis regarding the status of the zone and business activity within the zone.

135.1065. IMPROVEMENTS EXEMPT, WHEN — AUTHORIZING RESOLUTION, CONTENTS — PUBLIC HEARING REQUIRED, NOTICE — CERTAIN PROPERTY EXEMPT FROM AD VALOREM TAXES, DURATION — TIME PERIOD — PROPERTY AFFECTED — ASSESSOR'S DUTIES. — 1. Improvements made to "real property" as such term is defined in section 137.010, RSMo, which are made in an enhanced enterprise zone subsequent to the date such zone or expansion thereto was designated, may, upon approval of an authorizing resolution by the governing authority having jurisdiction of the area in which the improvements are made, be exempt, in whole or in part, from assessment and payment of ad valorem taxes of one or more affected political subdivisions.

2. Such authorizing resolution shall specify the percent of the exemption to be granted, the duration of the exemption to be granted, and the political subdivisions to which such exemption is to apply and any other terms, conditions, or stipulations otherwise required. A copy of the resolution shall be provided to the director within thirty calendar days following adoption of the resolution by the governing authority.

3. No exemption shall be granted until the governing authority holds a public hearing for the purpose of obtaining the opinions and suggestions of residents of political subdivisions to be affected by the exemption from property taxes. The governing authority shall send, by certified mail, a notice of such hearing to each political subdivision in the area to be affected and shall publish notice of such hearing in a newspaper of general circulation in the area to be affected by the exemption at least twenty days prior to the hearing but not more than thirty days prior to the hearing. Such notice shall state the time, location, date, and purpose of the hearing.

4. Notwithstanding subsection 1 of this section, at least one-half of the ad valorem taxes otherwise imposed on subsequent improvements to real property located in an enhanced enterprise zone shall become and remain exempt from assessment and payment of ad valorem taxes of any political subdivision of this state or municipality thereof for a period of not less than ten years following the date such improvements were assessed, provided the improved properties are used for enhanced business enterprises.

5. No exemption shall be granted for a period more than twenty-five years following the date on which the original enhanced enterprise zone was designated by the department.

6. The provisions of subsection 1 of this section shall not apply to improvements made to real property begun prior to August 28, 2004.

7. The abatement referred to in this section shall not relieve the assessor or other responsible official from ascertaining the amount of the equalized assessed value of all

taxable property annually as required by sections 99.855, 99.957, or 99.1042, RSMo, and shall not have the effect of reducing the payments in lieu of taxes referred to in subdivision (2) of subsection 1 of section 99.845, RSMo, subdivision (2) of subsection 3 of section 99.957, RSMo, or subdivision (2) of subsection 3 of section 99.1042, RSMo, unless such reduction is set forth in the plan approved by the governing body of the municipality pursuant to subdivision (1) of subsection 1 of section 99.820, section 99.942, or section 99.1027, RSMo.

135.1070. TAX CREDIT ALLOWED, DURATION — PROHIBITION ON RECEIVING OTHER TAX CREDITS — LIMITATIONS ON ISSUANCE OF TAX CREDITS — CAP — ELIGIBILITY OF CERTAIN EXPANSIONS — EMPLOYEE CALCULATIONS — COMPUTATION OF CREDIT — FLOW-THROUGH TAX TREATMENTS — CREDITS MAY BE CLAIMED, WHEN — CERTIFICATES — REFUNDS. — 1. A taxpayer who establishes a new business facility may, upon approval by the department, be allowed a credit, each tax year for up to ten tax years, in an amount determined as set forth in this section, against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo. No taxpayer shall receive multiple ten-year periods for subsequent expansions at the same facility.

2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes a new business facility in an enhanced enterprise zone and is awarded state tax credits under this section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to 135.268, or section 135.535.

3. No credit shall be issued pursuant to this section unless:

(1) The number of new business facility employees engaged or maintained in employment at the new business facility for the taxable year for which the credit is claimed equals or exceeds two; and

(2) The new business facility investment for the taxable year for which the credit is claimed equals or exceeds one hundred thousand dollars.

4. The annual amount of credits allowed for an approved enhanced business enterprise shall be the lesser of:

(1) The annual amount authorized by the department for the enhanced business enterprise, which shall be limited to the projected state economic benefit, as determined by the department; or

(2) The sum calculated based upon the following:

(a) A credit of four hundred dollars for each new business facility employee employed within an enhanced enterprise zone;

(b) An additional credit of four hundred dollars for each new business facility employee who is a resident of an enhanced enterprise zone;

(c) An additional credit of four hundred dollars for each new business facility employee who is paid by the enhanced business enterprise a wage that exceeds the average wage paid within the county in which the facility is located, as determined by the department; and

(d) A credit equal to two percent of new business facility investment within an enhanced enterprise zone.

5. Prior to January 1, 2007, in no event shall the department authorize more than four million dollars annually to be issued for all enhanced business enterprises. After December 31, 2006, in no event shall the department authorize more than seven million dollars annually to be issued for all enhanced business enterprises.

6. If a facility, which does not constitute a new business facility, is expanded by the taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

(1) The taxpayer's new business facility investment in the expansion during the tax period in which the credits allowed in this section are claimed exceeds one hundred

thousand dollars and if the number of new business facility employees engaged or maintained in employment at the expansion facility for the taxable year for which credit is claimed equals or exceeds two, and the total number of employees at the facility after the expansion is at least two greater than the total number of employees before the expansion; and

(2) The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in subdivision (12) of section 135.1050.

7. The number of new business facility employees during any taxable year shall be determined by dividing by twelve the sum of the number of individuals employed on the last business day of each month of such taxable year. If the new business facility is in operation for less than the entire taxable year, the number of new business facility employees shall be determined by dividing the sum of the number of individuals employed on the last business day of each full calendar month during the portion of such taxable year during which the new business facility was in operation by the number of full calendar months during such period. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility under subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (12) of section 135.1050, or subdivision (16) of section 135.1050, the number of new business facility employees at such facility shall be reduced by the average number of individuals employed, computed as provided in this subsection, at the facility during the taxable year immediately preceding the taxable year in which such expansion, acquisition, or replacement occurred and shall further be reduced by the number of individuals employed by the taxpayer or related taxpayer that was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

8. In the case where a new business facility employee is a resident of an enhanced enterprise zone for less than a twelve-month period is employed for less than a twelve-month period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section shall be determined by multiplying four hundred dollars by a fraction, the numerator of which is the number of calendar days during the taxpayer's tax year for which such credits are claimed, in which the employee was a resident of an enhanced enterprise zone, and the denominator of which is three hundred and sixty-five.

9. For the purpose of computing the credit allowed by this section in the case of a facility which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case of a new business facility which satisfies the requirements of paragraph (c) of subdivision (12) of section 135.1050 or subdivision (16) of section 135.1050, the amount of the taxpayer's new business facility investment in such facility shall be reduced by the average amount, computed as provided in subdivision (12) of section 135.1050 for new business facility investment, of the investment of the taxpayer, or related taxpayer immediately preceding such expansion or replacement or at the time of acquisition. Furthermore, the amount of the taxpayer's new business facility investment shall also be reduced by the amount of investment employed by the taxpayer or related taxpayer which was subsequently transferred to the new business facility from another Missouri facility and for which credits authorized in this section are not being earned, whether such credits are earned because of an expansion, acquisition, relocation, or the establishment of a new facility.

10. For a taxpayer with flow-through tax treatment to its members, partners, or shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to their share of ownership on the last day of the taxpayer's tax period.

11. Credits may not be carried forward but shall be claimed for the taxable year during which commencement of commercial operations occurs at such new business facility, and for each of the nine succeeding taxable years for which the credit is issued.

12. Certificates of tax credit authorized by this section may be transferred, sold, or assigned by filing a notarized endorsement thereof with the department that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the department. The sale price cannot be less than seventy-five percent of the par value of such credits.

13. The director of revenue shall issue a refund to the taxpayer to the extent that the amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

135.1075. RULEMAKING AUTHORITY. — The department may adopt such rules, statements of policy, procedures, forms, and guidelines as may be necessary to carry out the provisions of sections 135.1050 to 135.1075. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

135.1078. ELIGIBILITY OF EXISTING ENTERPRISE ZONES. — After January 1, 2007, all enterprise zones designated before January 1, 2006, shall be eligible to receive the tax benefits under sections 135.1050 to 135.1075, RSMo.

144.757. LOCAL USE TAX TO FUND COMMUNITY COMEBACK PROGRAM—RATE OF TAX — ST. LOUIS COUNTY — BALLOT OF SUBMISSION — NOTICE TO DIRECTOR OF REVENUE — REPEAL OR REDUCTION OF LOCAL SALES TAX, EFFECT ON LOCAL USE TAX. — 1. Any county or municipality, except municipalities within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand may, by a majority vote of its governing body, impose a local use tax if a local sales tax is imposed as defined in section 32.085, RSMo, at a rate equal to the rate of the local sales tax in effect in such county or municipality; provided, however, that no ordinance or order enacted pursuant to sections 144.757 to 144.761 shall be effective unless the governing body of the county or municipality submits to the voters thereof at a municipal, county or state general, primary or special election [prior to August 7, 1996, or after December 31, 1996,] a proposal to authorize the governing body of the county or municipality to impose a local use tax pursuant to sections 144.757 to 144.761. Municipalities within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand may, upon voter approval received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section, impose a local use tax at the same rate as the local municipal sales tax with the revenues from all such municipal use taxes to be distributed pursuant to subsection 4 of section 94.890, RSMo. The municipality shall within thirty days of the approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of subsection 2 of this section select one of the distribution options permitted in subsection 4 of section 94.890, RSMo, for distribution of all municipal use taxes.

2. (1) The ballot of submission, except for counties and municipalities described in subdivisions (2) and (3) of this subsection, shall contain substantially the following language:

Shall the (county or municipality's name) impose a local use tax at the same rate as the total local sales tax rate, currently (insert percent), provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be

reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(2) (a) The ballot of submission in a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

For the purposes of [preventing neighborhood decline, demolishing old deteriorating and vacant buildings, rehabilitating historic structures, cleaning polluted sites, promoting reinvestment in neighborhoods by creating the (name of county) Community Comeback Program; and for the purposes of] **economic development and** enhancing local government services[;], shall the county [governing body] be authorized to collect a local use tax equal to the total of the existing county sales tax rate of (insert tax rate), provided that if the county sales tax is repealed, reduced or raised by voter approval, the local use tax rate shall also be repealed, reduced or raised by the same voter action? [The Community Comeback Program] **Fifty percent of the revenue shall be used for economic development, including retention, creation, and attraction of better paying jobs, and fifty percent shall be used for enhancing local government services. The county shall be required to [submit] make available to the public [a] an audited comprehensive financial report detailing the management and use of economic development funds each year.**

A use tax is the equivalent of a sales tax on purchases from out-of-state sellers by in-state buyers and on certain taxable business transactions. A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(b) The ballot of submission in a municipality within a county [of the first classification] having a charter form of government with a population in excess of nine hundred thousand shall contain substantially the following language:

Shall the municipality be authorized to impose a local use tax at the same rate as the local sales tax by a vote of the governing body, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(3) The ballot of submission in any city not within a county shall contain substantially the following language:

Shall the (city name) impose a local use tax at the same rate as the local sales tax, currently at a rate of (insert percent) which includes the capital improvements sales tax and the transportation tax, provided that if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax shall also be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

(4) If any of such ballots are submitted on August 6, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect October 1, 1996, provided the director of revenue receives notice of adoption of the local use tax on or before August 16, 1996. If any of such ballots are submitted after December 31, 1996, and if a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the calendar quarter which begins at least forty-five days after the director of revenue receives notice of adoption of the local use tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county or municipality shall have no power to impose the local use tax as herein authorized unless and until the governing body of the county or municipality shall again have submitted another proposal to authorize the governing body of the county or municipality to impose the local use tax [pursuant to sections 144.757 to 144.761] and such proposal is approved by a majority of the qualified voters voting thereon.

3. The local use tax may be imposed at the same rate as the local sales tax then currently in effect in the county or municipality upon all transactions which are subject to the taxes imposed pursuant to sections 144.600 to 144.745 within the county or municipality adopting such tax; provided, however, that if any local sales tax is repealed or the rate thereof is reduced or raised by voter approval, the local use tax rate shall also be deemed to be repealed, reduced or raised by the same action repealing, reducing or raising the local sales tax.

4. For purposes of sections 144.757 to 144.761 [and sections 67.478 to 67.493, RSMo], the use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions. Such a description shall not change the classification, form or subject of the use tax or the manner in which it is collected.

144.759. COLLECTION OF ADDITIONAL LOCAL USE TAX FOR ECONOMIC DEVELOPMENT — DEPOSIT IN LOCAL USE TAX TRUST FUND, NOT PART OF STATE REVENUE — DISTRIBUTION TO COUNTIES AND MUNICIPALITIES — REFUNDS — NOTIFICATION TO DIRECTOR OF REVENUE ON ABOLISHMENT OF TAX — ECONOMIC DEVELOPMENT DEFINED.

— 1. All local use taxes collected by the director of revenue pursuant to sections 144.757 to 144.761 on behalf of any county or municipality, less one percent for cost of collection, which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited with the state treasurer in a local use tax trust fund, which fund shall be separate and apart from the local sales tax trust funds. The moneys in such local use tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust fund which was collected in each county or municipality imposing a local use tax, and the records shall be open to the inspection of officers of the county or municipality and to the public. No later than the tenth day of each month, the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month, except as provided in subsection 2 of this section, to the county or municipality treasurer, or such other officer as may be designated by the county or municipality ordinance or order, of each county or municipality imposing the tax authorized by sections 144.757 to 144.761, the sum due the county or municipality as certified by the director of revenue.

2. The director of revenue shall distribute all moneys which would be due any county [of the first classification] having a charter form of government and having a population of nine hundred thousand or more to the county treasurer or such other officer as may be designated by county ordinance, who shall distribute such moneys as follows: the portion of the use tax imposed by the county which equals one-half the rate of sales tax in effect for such county shall be disbursed to the county [community comeback trust authorized pursuant to sections 67.478

to 67.493, RSMo] treasurer for expenditure for economic development purposes, as defined in this section, subject to any qualifications and regulations adopted by ordinance of the county. Such ordinance shall require an audited comprehensive financial report detailing the management and use of economic development funds each year. Such ordinance shall also require that the county and the municipal league of the county jointly prepare an economic development strategy to guide expenditures of funds and conduct an annual review of the strategy. The treasurer or such other officer as may be designated by county ordinance shall distribute one-third of the balance to the county and to each city, town and village in group B according to section 66.620, RSMo, as modified by this section, a portion of the **two-thirds** remainder of such balance equal to the percentage ratio that the population of each such city, town or village bears to the total population of all such group B cities, towns and villages. For the purposes of this subsection, population shall be determined by the last federal decennial census or the latest census that determines the total population of the county and all political subdivisions therein. For the purposes of this subsection, each city, town or village in group A according to section 66.620, RSMo, but whose per capita sales tax receipts during the preceding calendar year pursuant to sections 66.600 to 66.630, RSMo, were less than the per capita countywide average of all sales tax receipts during the preceding calendar year, shall be treated as a group B city, town or village until the per capita amount distributed to such city, town or village equals the difference between the per capita sales tax receipts during the preceding calendar year and the per capita countywide average of all sales tax receipts during the preceding calendar year.

3. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county or municipality for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties or municipalities. If any county or municipality abolishes the tax, the county or municipality shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal, and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county or municipality, the director of revenue shall authorize the state treasurer to remit the balance in the account to the county or municipality and close the account of that county or municipality. The director of revenue shall notify each county or municipality of each instance of any amount refunded or any check redeemed from receipts due the county or municipality.

4. Except as modified in sections 144.757 to 144.761, all provisions of sections 32.085 and 32.087, RSMo, applicable to the local sales tax, except for subsection 12 of section 32.087, RSMo, and all provisions of sections 144.600 to 144.745 shall apply to the tax imposed pursuant to sections 144.757 to 144.761, and the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax.

5. As used in this section, "economic development" means:

(1) Expenditures for infrastructure and sites for business development or for public infrastructure projects;

(2) Purchase, assembly, clearance, demolition, environmental remediation, planning, redesign, reconstruction, rehabilitation, construction, modification or expansion of land, structures and facilities, public or private, either in connection with a reinvestment project in areas with underused, derelict, economically challenged, or environmentally troubled sites, or in connection with business attraction, retention, creation, or expansion;

(3) Expenditures related to business district activities such as facade improvements, landscaping, street lighting, sidewalk construction, trash receptacles, park benches, and other public improvements;

- (4) Expenditures for the provision of workforce training and educational support in connection with job creation, retention, attraction, and expansion;
- (5) Development and operation of business incubator facilities, and related entrepreneurship support programs;
- (6) Capitalization or guarantee of small business loan or equity funds;
- (7) Expenditures for business development activities including attraction, creation, retention, and expansion; and
- (8) Related administration expenses of economic and community development programs, provided that such expenses shall not exceed five percent of annual revenues.

178.980. DEFINITIONS. — As used in sections 178.980 to 178.984, the following terms mean:

- (1) "Agreement", the agreement between an employer and a junior college district concerning a project. An agreement may be for a period not to exceed ten years when the program services associated with a project are not in excess of five hundred thousand dollars. For a project where the associated program costs are greater than five hundred thousand dollars, the agreement may not exceed a period of eight years;
- (2) "Board of trustees", the board of trustees of a junior college district;
- (3) "Capital investment", an investment in research and development, working capital, and real and tangible personal business property except inventory or property intended for sale to customers. Trucks, truck trailers, truck semi-trailers, rail and barge vehicles and other rolling stock for hire, track, switches, barges, bridges, tunnels, rail yards, and spurs shall not qualify as a capital investment. The amount of such investment shall be the original cost of the property if owned, or eight times the net annual rental rate if leased;
- (4) "Certificate", industrial retained jobs training certificates issued under section 178.983;
- (5) "Date of commencement of the project", the date of the agreement;
- (6) "Employee", the person employed in a retained job;
- (7) "Employer", the person maintaining retained jobs in conjunction with a project;
- (8) "Industry", a business located within this state which enters into an agreement with a community college district and which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail services;
- (9) "Program costs", all necessary and incidental costs of providing program services, including payment of the principal, premium, and interest on certificates, including capitalized interest, issued to finance a project, funding and maintenance of a debt service reserve fund to secure such certificates and wages, salaries and benefits of employees participating in on-the-job training;
- (10) "Program services" includes, but is not limited to, the following:
 - (a) Retained jobs training;
 - (b) Adult basic education and job-related instruction;
 - (c) Vocational and skill-assessment services and testing;
 - (d) Training facilities, equipment, materials, and supplies;
 - (e) On-the-job training;
 - (f) Administrative expenses equal to seventeen percent of the total training costs, two percent to be paid to the department of economic development for deposit into the Missouri job development fund created under section 620.478, RSMo;
 - (g) Subcontracted services with state institutions of higher education, private colleges or universities, or other federal, state, or local agencies;
 - (h) Contracted or professional services; and

(i) Issuance of certificates;

(11) "Project", a training arrangement which is the subject of an agreement entered into between the community college district and an employer to provide program services that is not also the subject of an agreement entered into between a community college district and an employer to provide program services under sections 178.892 to 178.896;

(12) "Retained job", a job in a stable industry, not including jobs for recalled workers, which was in existence for at least two consecutive calendar years preceding the year in which the application for the retained jobs training program was made;

(13) "Retained jobs credit from withholding", the credit as provided in section 178.982;

(14) "Retained jobs training program", or "program", the project or projects established by a community college district for the retention of jobs, by providing education and training of workers for existing jobs for stable industry in the state;

(15) "Stable industry", a business that otherwise meets the definition of industry and retains existing jobs. To be a stable industry, the business shall have:

(a) Maintained at least one hundred employees per year at the employer's site in the state at which the jobs are based, for each of the two calendar years preceding the year in which application for the program is made;

(b) Retained at that site the level of employment that existed in the taxable year immediately preceding the year in which application for the program is made; and

(c) Made or agree to make a capital investment aggregating at least one million dollars to acquire or improve long-term assets (including leased facilities) such as property, plant, or equipment (excluding program costs) at the employer's site in the state at which jobs are based over a period of three consecutive calendar years, as certified by the employer and:

a. Have made substantial investment in new technology requiring the upgrading of worker's skills; or

b. Be located in a border county of the state and represent a potential risk of relocation from the state; or

c. Be determined to represent a substantial risk of relocation from the state by the director of the department of economic development;

(16) "Total training costs", costs of training, including supplies, wages and benefits of instructors, subcontracted services, on-the-job training, training facilities, equipment, skill assessment, and all program services excluding issuance of certificates.

178.981. COMMUNITY COLLEGE DISTRICTS MAY CONTRACT TO PROVIDE TRAINING, APPLICATION, AGREEMENT PROVISIONS. — A community college district, with the approval of the department of economic development in consultation with the office of administration, may enter into an agreement to establish a project and provide program services to an employer. As soon as possible after initial contact between a community college district and a potential employer regarding the possibility of entering into an agreement, the district shall inform the division of workforce development of the department of economic development and the office of administration about the potential project. The division of workforce development shall evaluate the proposed project within the overall job training efforts of the state to ensure that the project will not duplicate other job training programs. The department of economic development shall have fourteen days from receipt of the application to approve or disapprove projects. If no response is received by the community college within fourteen days, the projects are approved. Any project that is disapproved must be in writing stating the reasons for the disapproval. If an agreement is entered into, the district and the employer shall notify the department of revenue within fifteen calendar days. An agreement may provide, but is not limited to:

(1) Payment of program costs, including deferred costs, which may be paid from one or a combination of the following sources:

(a) Funds appropriated by the general assembly from the Missouri community college job retention program fund and disbursed by the division of workforce development in respect of retained jobs credit from withholding to be received or derived from retained employment resulting from the project;

(b) Tuition, student fees, or special charges fixed by the board of trustees to defray program costs in whole or in part;

(c) Guarantee of payments to be received under paragraph (a) or (b) of this subdivision;

(2) Payment of program costs shall not be deferred for a period longer than ten years if program costs do not exceed five hundred thousand dollars, or eight years if program costs exceed five hundred thousand dollars from the date of commencement of the project;

(3) Costs of on-the-job training for employees shall include wages or salaries of participating employees. Payments for on-the-job training shall not exceed the average of fifty percent of the total percent of the total wages paid by the employer to each participant during the period of training. Payment for on-the-job training may continue for up to six months from the date of the employer's capital investment;

(4) A provision which fixes the minimum amount of retained jobs credit from withholding, or tuition and fee payments which shall be paid for program costs;

(5) Any payment required to be made by an employer is a lien upon the employer's business property until paid and has equal precedence with ordinary taxes and shall not be divested by a judicial sale. Property subject to the lien may be sold for sums due and delinquent at a tax sale, with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes. The purchasers at tax sale obtain the property subject to the remaining payments.

178.982. RETAINED JOBS CREDIT FROM WITHHOLDING, HOW DETERMINED. — If an agreement provides that all or part of program costs are to be met by receipt of retained jobs credit from withholding, such retained jobs credit from withholding shall be determined and paid as follows:

(1) Retained jobs credit from withholding shall be based upon the wages paid to the employees in the retained jobs;

(2) A portion of the total payments made by the employer under section 143.221, RSMo, shall be designated as the retained jobs credit from withholding. Such portion shall be an amount equal to two and one-half percent of the gross wages paid by the employer for each of the first one hundred jobs included in the project and one and one-half percent of the gross wages paid by the employer for each of the remaining jobs included in the project. If business or employment conditions cause the amount of the retained jobs credit from withholding to be less than the amount projected in the agreement for any time period, then other withholding tax paid by the employer under section 143.221, RSMo, shall be credited to the Missouri junior college retained job training fund by the amount of such difference. The employer shall remit the amount of the retained jobs credit to the department of revenue in the manner prescribed in section 178.984. When all program costs, including the principal, premium, and interest on the certificates have been paid, the employer credits shall cease;

(3) The community college district participating in a project shall establish a special fund for and in the name of the project. All funds appropriated by the general assembly from the Missouri community college job training retention program fund and disbursed by the division of workforce development for the project and other amounts received by the district in respect of the project and required by the agreement to be used to pay

program costs for the project shall be deposited in the special fund. Amounts held in the special fund may be used and disbursed by the district only to pay program costs for the project. The special fund may be divided into such accounts and subaccounts as shall be provided in the agreement, and amounts held therein may be invested in investments which are legal for the investment of the district's other funds;

(4) Any disbursement in respect of a project received from the division of workforce development under sections 178.980 to 178.984 and the special fund into which it is paid may be irrevocably pledged by a junior college district for the payment of the principal, premium, and interest on the certificate issued by a junior college district to finance or refinance, in whole or in part, the project;

(5) The employer shall certify to the department of revenue that the credit from withholding is in accordance with an agreement and shall provide other information the department may require;

(6) An employee participating in a project will receive full credit for the amount designated as a retained jobs credit from withholding and withheld as provided in section 143.221, RSMo;

(7) If an agreement provides that all or part of program costs are to be met by receipt of retained jobs credit from withholding, the provisions of this subsection shall also apply to any successor to the original employer until such time as the principal and interest on the certificates have been paid.

178.983. POWERS AND DUTIES OF COMMUNITY COLLEGE DISTRICTS PROVIDING RETAINED JOBS TRAINING PROGRAMS — CERTIFICATES — NOTICE — BOARD FINDINGS — CERTIFICATES NOT STATE OR DISTRICT INDEBTEDNESS — RULEMAKING AUTHORITY — LIMITATION ON CERTIFICATE SALES. — 1. To provide funds for the present payment of the costs of retained jobs training programs, a community college district may borrow money and issue and sell certificates payable from a sufficient portion of the future receipts of payments authorized by the agreement including disbursements from the Missouri community college job retention training program to the special fund established by the district for each project. The total amount of outstanding certificates sold by all junior college districts shall not exceed fifteen million dollars, unless an increased amount is authorized in writing by a majority of members of the Missouri job training joint legislative oversight committee. The certificates shall be marketed through financial institutions authorized to do business in Missouri. The receipts shall be pledged to the payment of principal of and interest on the certificates. Certificates may be sold at public sale or at private sale at par, premium, or discount of not less than ninety-five percent of the par value thereof, at the discretion of the board of trustees, and may bear interest at such rate or rates as the board of trustees shall determine, notwithstanding the provisions of section 108.170, RSMo, to the contrary. However, chapter 176, RSMo, does not apply to the issuance of these certificates. Certificates may be issued with respect to a single project or multiple projects and may contain terms or conditions as the board of trustees may provide by resolution authorizing the issuance of the certificates.

2. Certificates issued to refund other certificates may be sold at public sale or at private sale as provided in this section with the proceeds from the sale to be used for the payment of the certificates being refunded. The refunding certificates may be exchanged in payment and discharge of the certificates being refunded, in installments at different times or an entire issue or series at one time. Refunding certificates may be sold or exchanged at any time on, before, or after the maturity of the outstanding certificates to be refunded. They may be issued for the purpose of refunding a like, greater, or lesser principal amount of certificates and may bear a higher, lower, or equivalent rate of interest than the certificates being renewed or refunded.

3. Before certificates are issued, the board of trustees shall publish once a notice of its intention to issue the certificates, stating the amount, the purpose, and the project or projects for which the certificates are to be issued. A person may, within fifteen days after the publication of the notice, by action in the circuit court of a county in the district, appeal the decision of the board of trustees to issue the certificates. The action of the board of trustees in determining to issue the certificates is final and conclusive unless the circuit court finds that the board of trustees has exceeded its legal authority. An action shall not be brought which questions the legality of the certificates, the power of the board of trustees to issue the certificates, the effectiveness of any proceedings relating to the authorization of the project, or the authorization and issuance of the certificates from and after fifteen days from the publication of the notice of intention to issue.

4. The board of trustees shall make a finding based on information supplied by the employer that revenues provided in the agreement are sufficient to secure the faithful performance of obligations in the agreement.

5. Certificates issued under this section shall not be deemed to be an indebtedness of the state or the community college district or of any other political subdivision of the state, and the principal and interest on such certificates shall be payable only from the sources provided in subdivision (1) of section 178.981 which are pledged in the agreement.

6. The department of economic development shall coordinate the retained jobs training program, and may promulgate rules that districts will use in developing projects with industrial retained jobs training proposals which shall include rules providing for the coordination of such proposals with the service delivery areas established in the state to administer federal funds pursuant to the federal Workforce Investment Act. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

7. No community college district may sell certificates as described in this section after July 1, 2014.

178.984. MISSOURI COMMUNITY COLLEGE JOB RETENTION TRAINING PROGRAM FUND ESTABLISHED — FORMS, REIMBURSEMENT FROM THE FUND. — 1. There is hereby established within the state treasury a special fund, to be known as the "Missouri Community College Job Retention Training Program Fund", to be administered by the division of workforce development. The department of revenue shall credit to the community college job retention training program fund, as received, all retained jobs credit from withholding remitted by employers pursuant to section 178.982. The fund shall also consist of any gifts, contributions, grants, or bequests received from federal, private, or other sources. The general assembly, however, shall not provide for any transfer of general revenue funds into the community college job retention training program fund. Moneys in the Missouri community college job retention training program fund shall be disbursed to the division of workforce development pursuant to regular appropriations by the general assembly. The division shall disburse such appropriated funds in a timely manner into the special funds established by community college districts for projects, which funds shall be used to pay program costs, including the principal, premium, and interest on certificates issued by the district to finance or refinance, in whole or in part, a project. Such disbursements by the division of workforce development shall be made to the special fund for each project in the same proportion as the retained jobs credit from withholding remitted by the employer participating in such project bears to the total retained jobs credit from withholding remitted by all employers participating in projects during the period for which the disbursement is made. Moneys for retained jobs training programs established under sections 178.980 to 178.984 shall be obtained from appropriations made by the general assembly from the Missouri community college job retention training program fund. All moneys remaining in the Missouri community

college job retention training program fund at the end of any fiscal year shall not lapse to the general revenue fund, as provided in section 33.080, RSMo, but shall remain in the Missouri community college job retention training program fund.

2. The department of revenue shall develop such forms as are necessary to demonstrate accurately each employer's retained jobs credit from withholding paid into the Missouri community college job retention training program fund. The retained jobs credit from withholding shall be accounted as separate from the normal withholding tax paid to the department of revenue by the employer. Reimbursements made by all employers to the Missouri community college job retention training program fund shall be no less than all allocations made by the division of workforce development to all community college districts for all job retention projects. The employer shall remit the amount of the retained job credit to the department of revenue in the same manner as provided in sections 143.191 to 143.265, RSMo.

620.1039. TAX CREDIT FOR QUALIFIED RESEARCH EXPENSES, EXCEPTION — CERTIFICATION BY DIRECTOR OF ECONOMIC DEVELOPMENT — TRANSFER OF CREDITS, APPLICATION, RESTRICTIONS AND PROCEDURE — LIMITATIONS ON CREDIT — TAX CREDITS PROHIBITED, WHEN. — 1. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441 or 143.471, RSMo, or section 148.370, RSMo, and the term "qualified research expenses" has the same meaning as prescribed in 26 U.S.C. 41.

2. For tax years beginning on or after January 1, 2001, the director of the department of economic development may authorize a taxpayer to receive a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, or chapter 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in an amount up to six and one-half percent of the excess of the taxpayer's qualified research expenses, as certified by the director of the department of economic development, within this state during the taxable year over the average of the taxpayer's qualified research expenses within this state over the immediately preceding three taxable years; except that, no tax credit shall be allowed on that portion of the taxpayer's qualified research expenses incurred within this state during the taxable year in which the credit is being claimed, to the extent such expenses exceed two hundred percent of the taxpayer's average qualified research expenses incurred during the immediately preceding three taxable years.

3. The director of economic development shall prescribe the manner in which the tax credit may be applied for. The tax credit authorized by this section may be claimed by the taxpayer to offset the tax liability imposed by chapter 143, RSMo, or chapter 148, RSMo, that becomes due in the tax year during which such qualified research expenses were incurred. Where the amount of the credit exceeds the tax liability, the difference between the credit and the tax liability may only be carried forward for the next five succeeding taxable years or until the full credit has been claimed, whichever first occurs. The application for tax credits authorized by the director pursuant to subsection 2 of this section shall be made no later than the end of the taxpayer's tax period immediately following the tax period for which the credits are being claimed.

4. Certificates of tax credit issued pursuant to this section may be transferred, sold or assigned by filing a notarized endorsement thereof with the department which names the transferee and the amount of tax credit transferred. The director of economic development may allow a taxpayer to transfer, sell or assign up to forty percent of the amount of the certificates of tax credit issued to and not claimed by such taxpayer pursuant to this section during any tax year commencing on or after January 1, 1996, and ending not later than December 31, 1999. Such taxpayer shall file, by December 31, 2001, an application with the department which names the transferee, the amount of tax credit desired to be transferred, and a certification that the funds received by the applicant as a result of the transfer, sale or assignment of the tax credit shall be

expended within three years at the state university for the sole purpose of conducting research activities agreed upon by the department, the taxpayer and the state university. Failure to expend such funds in the manner prescribed pursuant to this section shall cause the applicant to be subject to the provisions of section 620.017.

5. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to June 27, 1997, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to June 27, 1997, if such rule complied with the provisions of chapter 536, RSMo. The provisions of this section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, including the ability to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule, are subsequently held unconstitutional, then the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void.

6. The aggregate of all tax credits authorized pursuant to this section shall not exceed nine million seven hundred thousand dollars in any year.

7. For all tax years beginning on or after January 1, 2005, no tax credits shall be approved, awarded, or issued to any person or entity claiming any tax credit under this section.

644.032. SALES TAX FOR PURPOSE OF STORM WATER CONTROL OR LOCAL PARKS OR BOTH MAY BE IMPOSED BY ANY COUNTY OR MUNICIPALITY — TAX, HOW CALCULATED — VOTER APPROVAL — BALLOT FORM — EFFECTIVE WHEN — FAILURE OF TAX, RESUBMISSION, WHEN — REVENUE MAY BE USED FOR PARKS LOCATED OUTSIDE OF COUNTY OR MUNICIPALITY, WHEN. — 1. The governing body of any municipality or county may impose, by ordinance or order, a sales tax in an amount not to exceed one-half of one percent on all retail sales made in such municipality or county which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section and section 644.033 shall be in addition to any and all other sales taxes allowed by law, except that no ordinance or order imposing a sales tax under the provisions of this section and section 644.033 shall be effective unless the governing body of the municipality or county submits to the voters of the municipality or county, at a municipal, county or state general, primary or special election, a proposal to authorize the governing body of the municipality or county to impose a tax, **provided, that the tax authorized by this section shall not be imposed on the sales of food, as defined in section 144.014, RSMo, when imposed by any county with a charter form of government and with more than one million inhabitants.**

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the municipality (county) of impose a sales tax of (insert amount) for the purpose of providing funding for (insert either storm water control, or local parks, or storm water control and local parks) for the municipality (county)?

☐ YES ☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect on the first day of the second quarter after the director of revenue receives notice of adoption of the tax. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the municipality or county shall not impose the sales tax authorized in this section and section 644.033 until the governing body of the municipality or county resubmits another proposal to authorize the governing body of the municipality or county to impose the sales tax authorized by this section and section 644.033 and such proposal is approved by a majority of the qualified voters voting thereon; however, in no event shall a proposal pursuant

to this section and section 644.033 be submitted to the voters sooner than twelve months from the date of the last proposal pursuant to this section and section 644.033.

3. All revenue received by a municipality or county from the tax authorized under the provisions of this section and section 644.033 shall be deposited in a special trust fund and shall be used to provide funding for storm water control or for local parks, or both, within such municipality or county, provided that such revenue may be used for local parks outside such municipality or county if the municipality or county is engaged in a cooperative agreement pursuant to section 70.220, RSMo.

4. Any funds in such special trust fund which are not needed for current expenditures may be invested by the governing body in accordance with applicable laws relating to the investment of other municipal or county funds.

[67.478. TITLE. — Sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493 shall be known and may be cited as the "Community Comeback Act".]

[67.481. DEFINITIONS. — As used in sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493, the following terms mean:

(1) "Community comeback plan" and "plan", a comprehensive countywide plan adopted by the community comeback trust board and the governing body of the county that identifies potential areas for reinvestment, projects and strategies to promote neighborhood reinvestment throughout the county, and that clearly identifies on a map the priority comeback communities. The plan shall be a five-year strategic and operating plan, complete with goals, objectives, targets and mechanisms or methods of measuring accomplishments, revised annually;

(2) "Community comeback program", "community comeback trust" and "trust", a fund held in the treasury of the county which shall be the repository for all taxes and other moneys raised pursuant to sections 144.757 to 144.761, RSMo, and sections 67.478 to 67.493, and authorized by the governing body of the county for the purposes of promoting neighborhood reinvestment;

(3) "Community comeback program board", "community comeback trust board" and "board", the entity established pursuant to sections 67.478 to 67.493 that is responsible for administering the comeback community trust;

(4) "Community comeback trust citizen advisory committee" and "advisory committee", an eleven-member committee established pursuant to sections 67.478 to 67.493 that is responsible for advising the community comeback fund board on the best methods of promoting neighborhood reinvestment;

(5) "Eligible expenses", costs qualified for funding through the community comeback trust which are:

(a) Incurred for the purchase, assembly, clearance, demolition and environmental remediation of land, structures and facilities, public or private, either as part of a neighborhood reinvestment project or to prepare sites for future use in areas with underutilized, derelict, economically challenged or environmentally troubled sites;

(b) Related to planning, redesign, clearance, reconstruction, structure rehabilitation, site remediation, construction, modification, expansion, remodeling, structural alteration, replacement or renovation of any structure in a priority comeback community;

(c) Expended for capital improvements or infrastructure improvements to facilitate economic development;

(d) Expended for residential redevelopment including, but not limited to, buyouts, land-assembly costs, infrastructure improvements and costs associated with preparing sites for housing construction; professional service expenses such as architectural, planning, engineering, design, marketing or other related expenses;

(e) Related to community improvement district or special business district expenses such as facade improvements, landscaping, street lighting, sidewalk construction, trash receptacles, park benches and other public improvements;

- (f) Expenses related to facilitating transit-oriented developments, home improvement and home buyer loan programs; and
- (g) Expenses eligible for funding through the select neighborhood action program;
- (6) "Neighborhood reinvestment project" and "project", the planning, development, redesign, clearance, reconstruction or rehabilitation or any combination thereof in order to improve those residential, commercial, industrial, public or other structures or spaces and the infrastructure serving them as may be appropriate or necessary in the interest of the general welfare;
- (7) "Petition", a petitioner's request for funding made to the community comeback trust;
- (8) "Petitioner", the governing body of any municipality, the governing body of the county, any land clearance for redevelopment authority within the county organized pursuant to chapter 99, RSMo, or any not-for-profit economic development organization with a governing board not less than two-thirds of the members of which are appointed by the chief elected official of the county or by one or more organizations with governing boards appointed by the chief elected official;
- (9) "Priority comeback community", an area in a county which encompasses an entire United States census block group and has a median household income below the median household income for such entire county;
- (10) "Priority comeback project", a funding proposal submitted to a community comeback trust by a petitioner whose area is substantially within a priority comeback community;
- (11) "Proposal", a petitioner's funding request for the eligible expenses of a neighborhood reinvestment project submitted to a trust by a petitioner;
- (12) "Select neighborhood action program" and "SNAP", a grant program, administered and funded pursuant to subsection 5 of section 67.490;
- (13) "Select neighborhood action program applicant" and "SNAP applicant", a neighborhood organization or not-for-profit organization whose mission is consistent with the community comeback plan. The organization shall have a municipal sponsor or a county sponsor if the area is unincorporated. The organization shall have been in existence for at least six months and meet at least once a year in order to be eligible for a SNAP grant;
- (14) "SNAP grant", an endowment of money by the board to a SNAP applicant pursuant to subsection 5 of section 67.490.]

[67.484. ST. LOUIS COUNTY AUTHORIZED TO FORM COMMUNITY COMEBACK TRUST, PURPOSES, FORMATION — BOARD, COMPOSITION, NOMINATION, POWERS, DUTIES, RESTRICTIONS — FUNDING, LOCAL SALES TAX, BOND ISSUANCE, VALIDITY, PAYMENT. — 1. A community comeback trust may be created, incorporated and managed pursuant to this section by any county of the first classification with a charter form of government and a population of at least nine hundred thousand inhabitants according to the last decennial census, and may exercise the powers given to such trust pursuant to sections 67.478 to 67.493. A trust may sue and be sued, issue general revenue bonds and receive county use tax revenue pursuant to the limitations of this section. A trust shall have as its primary duties the prevention of neighborhood decline, the demolition of old deteriorating and vacant buildings, rehabilitating historic structures, the cleaning of polluted sites and the promotion of neighborhood reinvestment where such investment is essential to reverse or stabilize a stagnant or declining pattern in household income, assessed values, occupancies and related characteristics.

2. The governing body of the county is hereby authorized to impose by ordinance a local use tax pursuant to sections 144.757 to 144.761, RSMo, for the purpose of funding the creation, operation and maintenance of a community comeback trust, as well as to provide revenue to the county and municipalities authorized to receive moneys generated by said tax pursuant to section 144.759, RSMo. The governing body of the county enacting such an ordinance shall submit to the voters of such county a proposal to approve its ordinance imposing the tax. Such ordinance shall become effective only after the majority of the voters voting on such ordinance approve

such ordinance. The question shall be submitted to the voters in the county pursuant to section 144.757, RSMo.

3. (1) The community comeback trust board shall be composed of seven members as provided in this subsection. No member shall be an elected official, employee or contractor of the county or any municipality within the county or of any organization representing the county or any municipality within the county. Board members shall be citizens of the United States and shall reside within the county. No two members of the board shall be residents of the same county council district of such county. No member shall receive compensation for performance of board duties. No member shall be financially interested directly or indirectly in any contract entered into by the trust or by any petitioner. In the event that any property owned by a board member or the immediate family member of such board member is located in a priority comeback community, the member shall disclose such information to the board and abstain from any formal or informal actions regarding any project in that neighborhood.

(2) The chief elected official of any municipality wholly within the county and any member of the governing body of the county shall nominate individuals to serve on the board by providing a list of nominees to the county executive who shall appoint the members. Of the total members, at least four shall be residents of municipalities within the county and at least one shall have each of the following professions: a professional architect or engineer; an urban planner or design professional; a developer or builder; and an accountant or an attorney.

(3) The seat of a member shall be automatically vacated when the member changes his or her residence so as to no longer conform to the terms of the requirements of the member's appointment. The board shall promptly notify the county executive of such a change of residence, the pending expiration of any member's term, any member's need to vacate his or her seat or any vacancy on the board. A member whose term has expired shall continue to serve until the successor is appointed and qualified.

(4) Upon the passage of an ordinance by the governing body of the county establishing the community comeback trust, the governing body of the county shall, within ten days, send by United States mail written notice of the passage of the ordinance to the chief elected officials of each municipality wholly in the county.

(5) Each of the nominating authorities described in subdivision (2) of this subsection shall, within forty-five days of the passage of the ordinance establishing the board or within fourteen days of being notified of a board vacancy by the county executive, submit its list of nominees to the county executive. The county executive shall appoint members within sixty days of the passage of the ordinance or within thirty days of being notified by the board of a vacancy on the board. If a list of nominees is not submitted by the time specified, the county executive shall appoint the members using the criteria set forth in this section.

(6) At the first meeting of the board appointed after the effective date of the ordinance, the members shall choose by lot the length of their terms. Three shall serve for one year, two for two years, and two for three years. All succeeding members shall serve terms of three years. Terms shall end on December thirty-first of the respective year. No member shall serve more than two consecutive full terms. Full terms shall include any term longer than two years.

4. The board, its employees and subcontractors shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records pursuant to chapter 610, RSMo. The board shall enact and adopt all rules, regulations and procedures that are reasonably necessary to achieve the objectives of sections 67.478 to 67.493, and not inconsistent therewith, no sooner than twenty-seven calendar days after notifying all municipalities and the county of the proposed rule, regulation or procedure enactment or change. Notice may be given by ordinary mail, by electronic mail or by publishing in at least one newspaper of general circulation qualified to publish legal notices. No new or amended rule, regulation or procedure shall apply retroactively to any proposal pending before the trust without the agreement of the petitioner. The board shall have the exclusive control of the expenditures of all money collected to the credit of the trust, subject to

annual appropriations by the governing body of the county. The county government shall provide the trust staff. No more than five percent of the trust's annual budget shall be used for the trust's annual administrative expenses.

5. The trust is authorized to issue bonds, notes or other obligations for any proposal, and to refund such bonds, notes or obligations, as provided in subsection 3 of this section; and to receive and liquidate property, both real and personal, or money which has been granted, donated, devised or bequeathed to the district. The trust shall not have any power of eminent domain.

6. (1) Bonds issued pursuant to this section shall be issued pursuant to a resolution adopted by five-sevenths of the board which shall set out the estimated cost to the trust of the proposed improvements, and shall further set out the amount of the bonds to be issued, their purpose or purposes, their date or dates, denomination or denominations, rate or rates of interest, time or times of payment, both of principal and of interest, place or places of payment and all other details in connection with such bonds. Any such bonds may be subject to such provision for redemption prior to maturity, with or without premium, and at such times and upon such conditions as may be provided by the resolution.

(2) Notwithstanding the provisions of section 108.170, RSMo, such bonds shall bear interest at rate or rates determined by the trust, shall mature within a period not exceeding twenty years and may be sold at public or private sale for not less than ninety-five percent of the principal amount of such bonds. Bonds issued by the trust shall possess all of the qualities of negotiable instruments pursuant to the laws of this state.

(3) Such bonds may be payable to the bearer, may be registered or coupon bonds, and, if payable to bearer, may contain such registration provisions as to either principal and interest, or principal only, as may be provided in the resolution authorizing such bonds, which resolution may also provide for the exchange of registered and coupon bonds. Such bonds and any coupons attached thereto shall be signed in such manner and by such officers of the district as may be provided by the resolution authorizing the bonds. The trust may provide for the replacement of any bond which has become mutilated, destroyed or lost.

(4) Bonds issued by the trust shall be payable as to principal, interest and redemption premium, if any, out of all or any part of the trust fund, including revenues derived from use taxes. Neither the board members nor any person executing the bonds shall be personally liable on such bonds by reason of the issuance of such bonds. Bonds issued pursuant to this section shall not constitute a debt, liability or obligation of this state, or any political subdivision of this state, nor shall any such obligations be a pledge of the faith and credit of this state, but shall be payable solely from the revenues and assets held by the trust. The issuance of bonds pursuant to this section shall not directly, indirectly or contingently obligate this state or any political subdivision of this state to levy any form of taxation for such bonds or to make any appropriation for their payment. Each obligation or bond issued pursuant to this section shall contain on its face a statement to the effect that the trust shall not be obligated to pay such bond nor interest on such bond except from the revenues received by the trust or assets of the trust lawfully pledged for such trust, and that neither the faith or credit nor the taxing power of this state or of any political subdivision of this state is pledged to the payment of the principal of or the interest on such obligation or bond. The proceeds of such bonds shall be disbursed in such manner and pursuant to such restrictions as the trust may provide in the resolution authorizing the issuance of such bonds.

(5) The trust may issue negotiable refunding bonds for the purpose of refunding, extending or unifying the whole or any part of such bonds then outstanding, or any bonds, notes or other obligations issued by any other public agency, public body or political subdivision in connection with any facilities or land to be acquired, leased or subleased by the trust, which refunding bonds shall not exceed the amount necessary to refund the principal of the outstanding bonds to be refunded and the accrued interest on such bonds to the date of such refunding, together with any redemption premium, amounts necessary to establish reserve and escrow funds

and all costs and expenses incurred in connection with the refunding. The board shall provide for the payment of interest and principal of such refunding bonds in the same manner as was provided for the payment of interest and principal of the bonds refunded.

(6) In the event that any of the members or officers of the trust whose names appear on any bonds or coupons shall cease to be on the board or cease to be an officer before the delivery of such bonds, such signatures shall remain valid and sufficient for all purposes, the same as if such board members or officers had remained in office until such delivery.

(7) The trust is hereby declared to be performing a public function and bonds of the trust are declared to be issued for an essential public and governmental purpose, and, accordingly, interest on such bonds and income from such bonds shall be exempt from income taxation by this state. All purchases in excess of ten thousand dollars shall be made pursuant to the lowest and best bid standard as provided in section 34.040, RSMo, or pursuant to the lowest and best proposal standard as provided in section 34.042, RSMo. The board of the trust shall have the same discretion, powers and duties as the commissioner of administration has in sections 34.040 and 34.042, RSMo.]

[67.487. COMMUNITY COMEBACK PLAN, NOTIFICATION, DEVELOPMENT, DISTRIBUTION, ANNUAL REVISION AND ADOPTION — REPORTS AND AUDITS REQUIRED — ADVISORY COMMITTEE TO BE ESTABLISHED BY THE BOARD. — 1. Within fourteen days of the first meeting of the first board appointed following the effective date of the ordinance, the board shall notify by mail the chief elected officials of all municipalities wholly within the county, the chief elected official of the county and all the members of the governing body of the county of the requirement to conduct a planning process and adopt a community comeback plan.

2. The board shall solicit full citizen, county and municipal involvement in developing the plan. The board shall conduct public hearings throughout the county to seek input regarding the plan, and may convene meetings with the appropriate staff of the county and municipalities in order to seek input and to coordinate the logistics of producing the plan. A copy of the plan shall be sent to the chief elected official of every municipality wholly within the county, the chief elected official of the county and each member of the governing body of the county.

3. The board and the governing body of the county shall annually revise and adopt a plan.

4. Each plan shall include a map of the county, as well as a text enumerating the efforts expected each year in the various subregions of the county. Each plan shall address the factors that are causing or are likely to cause one or more of the following:

- (1) Assessed values below the county average;
- (2) Median household incomes below the county median;
- (3) An unemployment rate above the county average;
- (4) A reduction in the number of jobs with an emphasis upon those jobs paying average or above-average salaries;
- (5) Failure to keep pace with the average growth rate in home values in the metropolitan area or county; and
- (6) A high vacancy rate among residential, commercial and industrial properties.

5. Each plan shall include an analysis of the condition of the housing stock in the various subregions of the county, a market analysis of the home-buying market with a focus on the impediments to attracting home buyers to those subregions and an analysis of the physical infrastructure needs that prevent economic growth.

6. The board may consider the following factors when determining the appropriate areas and strategies for investment:

- (1) Buildings that are unsafe or unhealthy for occupancy due to code violations, dilapidation, defective design, faulty utilities or any other negative conditions;
 - (2) Factors that prevent or substantially hinder the economically viable use of buildings or lots, such as substandard design, inadequate size, lack of parking or any other conditions;
 - (3) Incompatible uses that prevent economic development;
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(4) Subdivided lots of irregular form and shape and inadequate size for proper usefulness that have multiple ownership;

(5) Depreciated or stagnant property values, including properties that contain hazardous wastes;

(6) Abnormally high business vacancies, abnormally low lease rates, high turnover rates, abandoned buildings, or excessive vacant lots within an area developed for urban use and served by utilities;

(7) The existence of conditions that are not conducive to public safety; and

(8) The lack of necessary commercial facilities normally found in neighborhoods.

7. Each plan shall outline specific strategies to address the problems facing the various subregions and neighborhoods within the county. The plan shall also discuss the partnerships that can be made with federal, state and local governments, as well as businesses, labor organizations, nonprofit groups, religious and other groups and citizens to help implement the plan. These strategies shall include estimated costs and time lines for completion.

8. The board shall produce an annual report focusing on the accomplishments of the trust relative to the goals set forth in the plan, the goals for the next year and the challenges facing the trust. The annual report shall be given to the chief elected officials of all the municipalities wholly within the county, the chief elected official of the county, the members of the governing board of the county and the public libraries within the county, and shall be posted on the county Internet web site.

9. Every year, the board shall commission an independent financial audit, the report of which shall be distributed in the same manner as the annual report pursuant to subsection 8 of this section.

10. Every five years, the board shall commission an independent management audit. The management audit shall include a comprehensive analysis of development trends, factors and practices along with specific recommendations to improve the trust's ability to achieve its mission. The management audit shall be reviewed by the advisory committee which may offer constructive advice on enhancing practices in order to achieve the goals of the program. The management audit shall be distributed in the same manner as the annual report pursuant to subsection 8 of this section. The board is authorized to take any necessary and proper steps to address the issues and recommendations contained within the management audit.

11. (1) The board shall establish an eleven-member advisory committee that shall meet four times each year and shall advise petitioners, staff and the board. The advisory committee members shall be appointed by the county executive. At least six of the advisory committee's members shall be nominated by the municipal league within the county and at least three shall be nominated by the members of the governing body of the county. No advisory committee member shall receive compensation for performance of duties as a committee member.

(2) At least one of the advisory committee members shall be a university professor well-versed in regional development issues. At least two of the advisory committee members shall be municipal officials from communities that have undertaken redevelopment programs as part of larger planning efforts. At least one of the advisory committee members shall be an attorney with experience in redevelopment activities. At least two of the advisory committee members shall be residents of priority comeback communities who have been active in advocating effective redevelopment policies. At least one of the advisory committee members shall be a private professional familiar with the factors influencing business location decisions. At least one of the advisory committee members shall be an individual familiar with education and training practices and workforce needs, with an understanding of how labor availability impacts business location decisions. At least one of the advisory committee members shall be a planner from the private sector knowledgeable in the area of strategic planning and the principles of multiyear rolling plans.

(3) The advisory committee shall promptly notify the county executive of the pending expiration of any member's term or any vacancy on the advisory committee. A member whose term has expired shall continue to serve until his or her successor is appointed and qualified.

(4) The board shall establish the advisory committee by resolution at the board's first meeting. The board shall, within ten days of the passage of the resolution establishing the advisory committee, send by United States mail written notice of the passage of the resolution to the county's municipal league and the members of the governing body of the county. The municipal league and the members of the governing board of the county shall, within forty-five days of the passage of the resolution establishing the advisory committee or within fourteen days of being notified of a vacancy by the county executive, submit its list of nominees to the county executive. The county executive shall appoint members within sixty days of the passage of the resolution or within thirty days of being notified by the committee of a vacancy on the advisory committee. If a list of nominees is not submitted by the time specified, the county executive shall appoint the members using the criteria set forth in this section before the sixtieth day from the passage of the resolution or before the thirtieth day from being notified of a vacancy on the existing advisory committee.

(5) At the advisory committee's first meeting, the members shall choose by lot the length of their terms. Two shall serve for one year, three for two years, three for three years and three for four years. All succeeding committee members shall serve for four years. Terms shall end on December thirty-first of the respective year.

(6) The committee members shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to 105.498, RSMo, and to the requirements for open meetings and records pursuant to chapter 610, RSMo.]

[67.490. PETITIONS, CONTENTS, REVIEW, CRITERIA, APPROVAL BY BOARD AS PROPOSAL, PUBLIC HEARING — PROCEDURE IF FUNDS SOUGHT, ADDITIONAL REVIEW, FINDINGS BY BOARD REQUIRED WHEN — SELECT NEIGHBORHOOD ACTION PROGRAM, ELIGIBLE PROJECTS. — 1. The board shall in a timely manner adopt rules setting forth basic guidelines for acceptance and evaluation of petitions, including a common understandable format, as well as appropriate supporting material, maps, plans and data. The board shall begin to accept petitions one month after the adoption of the plan by the governing body of the county pursuant to section 67.487. The board shall review all petitions submitted by any petitioner. Review shall begin no later than thirty days after submission of the petition to the commission. In order to qualify as a proposal, a petition shall address the criteria set forth in subsection 4 of this section. For the purposes of this subsection, the term "pending" means any proposal submitted to the board which has not yet been approved by the board.

2. When practical, a petition shall be initially submitted to the advisory committee for constructive review and comment in a manner likely to result in a proposal that addresses a strategy outlined in the plan.

3. The board shall hold a public hearing concerning the petition, which may be on the same day as a scheduled meeting of the board.

4. (1) In reviewing any petition for funding, the board shall first determine if funds are sought for eligible expenses for a neighborhood reinvestment project. If the petition seeks such funds, the board shall certify such petition as a proposal subject to further review unless the board finds that the petition seeks funds for expenses that do not qualify as eligible expenses, or seeks funds for an endeavor other than a neighborhood reinvestment project. If the board finds that funds are sought for ineligible expenses or for an ineligible endeavor, the board need not take any further action and shall notify the petitioner in writing of all deficiencies that prevent the petition from being a proposal. If the board determines that there is a minor error or discrepancy in a petition, the board, with the petitioner's concurrence, may make such changes to the petition as are necessary to rectify the error that prevents the petition from being certified as a proposal subject to further review. Within six months of certification of a petition as a proposal, the board

shall issue a finding approving or disapproving such proposal. In disapproving any proposal, the board shall issue a document indicating the reasons that the proposal was disapproved.

(2) If the board determines that a proposal is a priority comeback project consistent with the strategies and priorities set forth in the community comeback plan and that the project is well-planned, realistic, creative, resourceful, benefits the local community and is cost-effective, then the board shall award funding. If the board determines that a proposal is a priority comeback project, but is inconsistent with the strategies and priorities in the community comeback plan, the board may award funding if it finds that the project is well-planned, realistic, creative, resourceful, benefits the local community, is cost-effective and addresses the reinvestment needs of neighborhoods by one or more of the following:

- (a) Reducing or removing impediments to attracting home buyers;
- (b) Providing the necessary physical infrastructure needed to promote significant job growth;
- (c) Reducing or removing any such factor or factors that constitute an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use.

(3) If the board determines that a proposal, which is not a priority comeback project, is consistent with the strategies and priorities set forth in the community comeback plan and is well-planned, realistic, creative, resourceful, benefits the local community and is cost-effective, the board may award funding if the board adds such proposal to the plan. If the board determines that a proposal, which is not a priority comeback project, is inconsistent with the strategies and priorities in the community comeback plan, the board may award funding if it finds that the project is well-planned, realistic, creative, resourceful, benefits the local community, is cost-effective and addresses the reinvestment needs of neighborhoods by one or more of the following:

- (a) Reducing or removing impediments to attracting home buyers;
- (b) Providing the necessary physical infrastructure needed to promote significant job growth;
- (c) Reducing or removing any such factor or factors that constitute an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use.

(4) The board, the advisory committee and the staff of both may advise petitioners on issues related to petitions or proposals. The board may meet informally, subject to the requirements of chapter 610, RSMo, with representatives of potential petitioners with regard to future petitions and plans.

5. The board shall establish a select neighborhood action program. SNAP applicants shall provide a ten-percent cash or in-kind match to be eligible for a SNAP grant. Project categories eligible for SNAP grant funding shall be:

(1) Neighborhood beautification projects which enhance the appearance of the overall neighborhood. Such projects include, but are not limited to, tree and flower plantings, cleanups, entranceway landscaping, community gardens, public art and neighborhood identification signs/banners;

(2) Neighborhood organization or capacity projects which create or increase membership in a neighborhood organization promoting community betterment. Such projects include, but are not limited to, neighborhood newsletters, neighborhood marketing brochures, neighborhood meetings and special events, and technology such as web site development;

(3) Neighborhood-school partnership projects which benefit a school and the adjacent neighborhood. Involvement of both the school and the neighborhood in planning, implementation and maintenance must be substantiated. Partnership projects include, but are not limited to, youth and community programs that promote safety, culture or the environment and that are beneficial to both the school and the neighborhood;

(4) Capital purchase projects which include the acquisition of equipment or property. Such projects include, but are not limited to, land acquisition, playground equipment, bicycle racks and major supplies;

(5) Neighborhood improvement projects which benefit the local infrastructure in a neighborhood, and include construction of sidewalks or installation of streetlights.

6. Project categories ineligible for SNAP grant funding shall be:

(1) Projects accomplished in more than twelve months;

(2) Projects that duplicate existing private or public programs;

(3) Projects that require ongoing services, or requests to support continual operating budgets; and

(4) Projects that conflict with the community comeback plan.

7. When making SNAP grant funding decisions, the board shall consider the level of neighborhood participation including the percentage of residents who are involved in planning and implementing the idea, the diversity of parties involved or that will benefit, and the amount of neighborhood opposition; the community benefit of the project, including the number of people who will benefit from the project and the overall quality of the project.]

[67.493. FUNDS, MINIMUM TO BE USED FOR SNAP GRANT PROGRAM AND PRIORITY COMEBACK PROJECTS, OTHER USES. — Of the funds available to the trust, a minimum of five percent of the funds, not to exceed an unallocated balance of five hundred thousand dollars rolled over from the previous fiscal year, shall be set aside annually for the SNAP grant program. Of the remaining funds seventy-five percent calculated on a rolling three-year average shall be set aside for priority comeback projects. The balance of the funds shall be used to indirectly or directly benefit priority comeback communities or residents of those areas by utilizing such funds to:

(1) Promote job preparation and job creation in areas easily accessed by residents of priority comeback communities;

(2) Improve neighborhoods adjacent to priority comeback communities that are unlikely to be improved without such funding; and

(3) Abate through low-interest home improvement loan programs or similar mechanisms the functional or marketable obsolescence of any owner-occupied residential structure over twenty-five years old which is located within a census block group below one hundred ten percent of the median income level for the metropolitan statistical area for this state; provided that, there is a significant threat of economic decline within the area without intervention by the trust.]

[620.1400. CITATION OF LAW, APPLICABILITY. — Sections 620.1400 to 620.1460 shall be known and may be cited as the "Missouri Individual Training Account Program Act" and its provisions shall be effective only within distressed communities as defined by section 135.530, RSMo.]

[620.1410. PROGRAM ESTABLISHED, TRAINING. — There is hereby established an "Individual Training Account Program" within the department of economic development. Job training and retraining activities conducted pursuant to the provisions of sections 620.1400 to 620.1460 shall be directed to employee advancement, where jobs are linked to training before the training commences, and shall emphasize upgrade training where current or potential employers, by means of educational programs, provide existing employees with training for higher skilled positions. Job training activities provided pursuant to the provisions of the individual training account program shall attempt to prepare employed workers, including those with obsolete or inadequate job skills, for positions that remain unfilled or that may be created by current or potential employers.]

[620.1420. DEFINITIONS. — As used in sections 620.1400 to 620.1460, the following terms mean:

- (1) "Costs of classroom training", the normal costs incurred in the provision of classroom training which may also include specifically identified costs incurred for instructors, classroom space and facilities, administrative support services, and directly related expenses, that together do not exceed the amount normally allowed for support of vocational and technical classes;
- (2) "Department", the department of economic development;
- (3) "Employee", a full-time or part-time employed worker whose salary is equal to or less than two hundred percent of the federal poverty level;
- (4) "Employee upgrade training", the progressive development of skills associated with the defined set of work processes. Such training shall be consistent with a career pattern of advancement, as measured by skill proficiency and the progressive earnings and related benefits, that are recognized within an occupation, trade or industry;
- (5) "Individual training account", an account funded by the tax credits provided for in section 620.1440 for the provision of employee upgrade training to employees through their participation in classroom training provided by educational institutions;
- (6) "Local educational institution", a publicly funded or privately funded local educational institution which is certified by a recognized accrediting association as capable of providing adequate classroom training to accomplish the purpose of sections 620.1400 to 620.1460.]

[620.1430. PARTICIPATION BY EMPLOYERS, NOTIFICATION — SELECTION OF EDUCATIONAL INSTITUTION — PAYMENT OF CLASSROOM TRAINING COSTS. — 1. A Missouri employer who desires to participate in the individual training account program shall provide the department of economic development with notification of intent to participate. The notification shall include, but need not be limited to, the names and occupations of employees whom the employer has selected to be trained, whether or not the employees are currently working for the employer, the name of the local educational institution that will provide the training, and a brief description of the training to be given by the institution.

2. The employer shall have complete discretion in the selection of the local educational institution or institutions to provide training and shall be responsible for the payment of the costs of classroom training.]

[620.1440. REIMBURSEMENT OF COSTS — TAX CREDIT ALLOWED, CREDIT CARRIED FORWARD — DOCUMENTATION REQUIRED. — 1. Employers may be reimbursed for the costs of training provided pursuant to the provisions of the individual training account program. Such reimbursement shall be in the form of tax credits as authorized in subsection 2 of this section. The tax credits may be claimed for courses provided in no more than two calendar years for each employee. For each year, the maximum amount of credit per employee which can be certified by the department of economic development shall be the lesser of fifty percent of the costs of classroom training or one thousand five hundred dollars.

2. Tax credits may be claimed against any liability incurred by the employer pursuant to the provisions of chapter 143, RSMo, and chapter 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo. Earned tax credits may be carried forward for a period not to exceed five years and may be sold or transferred.

3. No claim for tax credits submitted to the department by an employer shall be certified until the employer provides documentation that an employee has successfully completed the employee's course training and has been employed by the employer in a new, full-time position for a period of at least three months. It must be demonstrated satisfactorily to the department that the new position in which the employee located is an upgrade in employment, in terms of salary and responsibilities, from the previously held position. All such increases in salary shall be in addition to normal cost-of-living increases provided for in authorized labor-management

contracts. If the employee was previously employed in a part-time position, the base salary for the position shall be calculated as if it were a full-time position.]

[620.1450. MAXIMUM TAX CREDIT ALLOWED. — The maximum amount of tax credits allowable pursuant to the provisions of the individual training account program shall not annually exceed six million dollars.]

[620.1460. AUTHORITY TO PROMULGATE RULES. — The department of economic development may promulgate necessary rules and regulations to carry out the provisions of sections 620.1400 to 620.1460. No rule or portion of a rule promulgated pursuant to the authority of sections 620.1400 to 620.1460 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[620.1560. MATURE WORKER CHILD CARE PROGRAM ESTABLISHED — DEFINITIONS — PROPOSAL SOLICITED, CONTENT — TAX CREDIT ALLOWED, AMOUNT — INDEPENDENT EVALUATION CONDUCTED. — 1. For purposes of this section, the following terms mean:

- (1) "Department", the department of economic development;
- (2) "Disadvantaged", an individual shall be considered disadvantaged and eligible to participate in the program if such individual meets any one of the following elements:
 - (a) The family income is at or below one hundred fifty percent of the poverty line;
 - (b) The individual is receiving public support for the care of a foster child;
 - (c) The individual faces serious barriers to employment including displaced homemakers; dislocated workers; veterans; or individuals who possess outdated skills;
- (3) "Program", the mature worker child care program.

2. There is hereby established within the department of economic development a program to be known as the "Mature Worker Child Care Program". The program will administer a statewide community service, in cooperation with the neighborhood assistance program, to enroll disadvantaged individuals, who are fifty years of age or older, to work in child-care assignments. Enrollees may include qualified individuals who are currently participating in existing community service programs.

3. The department shall solicit proposals from organizations seeking to contract to supervise the participants. Organizations that are awarded a contract will be responsible for recruiting and training participants, locating child-care assignments, and paying participants. Contract proposals shall include:

- (1) A requirement that participants in the program be paid the federal minimum wage;
- (2) A process that allows participants to work an average of twenty-four hours a week for public and not-for-profit day care providers and for school latch-key programs that provide before- and after-school care;
- (3) A description of the range of services to be performed by program participants, including, but not limited to, child care, food preparation, transportation, activity coordination, and clerical duties;
- (4) A requirement that the participating facilities provide proof of required licensure under sections 210.201 to 210.259, RSMo, with the exception of the public school system.

4. The program shall be implemented by July 1, 2000, and shall be funded through general revenue funds with no more than twelve percent of the funds to be used for administrative purposes.

5. In addition to tax credits currently available under the neighborhood assistance program, a participating facility shall be allowed a credit against the tax imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and chapter 147, 148 or 153, RSMo, pursuant to this section. The amount of tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed. Taxpayers eligible for such tax credit may transfer, sell or assign them. Individual salaries up to

ten thousand dollars per program participant each taxable year are eligible for the tax credit which shall not exceed twenty-five percent of the eligible salary amount. Total tax credits taken through the program shall not exceed two million dollars.

6. The department of economic development shall verify all tax credit claims by participating facilities. The tax credit allowed by this section shall apply to all taxable years beginning after December 31, 1999.

7. Subject to appropriations and to the provisions of chapter 34, RSMo, the oversight division of the committee on legislative research shall award up to thirty thousand dollars every two years for an independent evaluation of the program. Based on this program evaluation, the department shall provide a comprehensive report on the program to the speaker of the house and the president pro tem of the senate by March first of each year, beginning in 2001.]

Approved July 8, 2004

SB 1160 [HS HCS SCS SB 1160]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Prescription Drug Repository Program within the Department of Health and Senior Services.

AN ACT to amend chapter 196, RSMo, by adding thereto six new sections relating to the prescription drug repository program, with penalty provisions.

SECTION

- A. Enacting clause.
- 196.970. Citation of law.
- 196.973. Definitions.
- 196.976. Prescription drug repository program established, criteria.
- 196.979. Donation of prescription drugs to the program, procedure.
- 196.981. Immunity from civil or criminal liability, when.
- 196.984. Administrative rules, authority to promulgate.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 196, RSMo, is amended by adding thereto six new sections, to be known as sections 196.970, 196.973, 196.976, 196.979, 196.981, and 196.984, to read as follows:

196.970. CITATION OF LAW. — Sections 196.970 to 196.984 shall be known and may be cited as the "Prescription Drug Repository Program Act".

196.973. DEFINITIONS. — As used in sections 196.970 to 196.984, the following terms shall mean:

(1) "Health care professional", any of the following persons licensed and authorized to prescribe and dispense drugs and to provide medical, dental, or other health-related diagnoses, care, or treatment:

- (a) A licensed physician or surgeon;
 - (b) A registered nurse or licensed practical nurse;
 - (c) A physician assistant;
 - (d) A dentist;
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- (e) A dental hygienist;
- (f) An optometrist;
- (g) A pharmacist; and
- (h) A podiatrist;
- (2) "Hospital", the same meaning as such term is defined in section 197.020, RSMo;
- (3) "Nonprofit clinic", a facility organized as not-for-profit in which advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four consecutive hours to persons not residing or confined at such facility;
- (4) "Prescription drug", a drug which may be dispensed only upon prescription by an authorized prescriber and which is approved for safety and effectiveness as a prescription drug under Section 505 or 507 of the Federal Food, Drug, and Cosmetic Act.

196.976. PRESCRIPTION DRUG REPOSITORY PROGRAM ESTABLISHED, CRITERIA. — 1. By January 1, 2005, the department of health and senior services shall establish the "Prescription Drug Repository Program" to accept and dispense prescription drugs donated for the purpose of being dispensed to persons who are residents of Missouri and who meet eligibility requirements established by rules promulgated pursuant to section 196.984.

2. The following criteria shall be used in accepting drugs for use in the program:

- (1) Only prescription drugs in their original sealed and tamper-evident unit dose packaging shall be accepted and dispensed pursuant to the program;
- (2) The packaging must be unopened; except that prescription drugs packaged in single-unit doses may be accepted and dispensed when the outside packaging is opened if the single-unit-dose packaging is undisturbed;
- (3) Prescription drugs donated by individuals shall bear the manufacturer's lot number and an expiration date that is less than six months from the date the prescription drug is donated shall not be accepted or dispensed; and
- (4) A prescription drug shall not be accepted or dispensed if there is reason to believe that the drug is adulterated as described in section 196.095;
- (5) Subject to the limitations specified in this section, unused prescription drugs dispensed for purposes of a medical assistance program may be accepted and dispensed under the prescription drug repository program.

196.979. DONATION OF PRESCRIPTION DRUGS TO THE PROGRAM, PROCEDURE. — 1. Any person, including but not limited to a prescription drug manufacturer or health care facility, may donate prescription drugs to the prescription drug repository program. The drugs shall be donated at a pharmacy, hospital, or nonprofit clinic that elects to participate in the prescription drug repository program and meets the criteria for participation established by rule of the department pursuant to section 196.984. Participation in the program by pharmacies, hospitals, and nonprofit clinics shall be voluntary. Nothing in sections 196.970 to 196.984 shall require any pharmacy, hospital, or nonprofit clinic to participate in the program.

2. A pharmacy, hospital, or nonprofit clinic which meets the eligibility requirements established in section 196.984 may dispense prescription drugs donated under the program to persons who are residents of Missouri and who meet the eligibility requirements of the program, or to other governmental entities and nonprofit private entities to be dispensed to persons who meet the eligibility requirements of the program. A prescription drug shall be dispensed only pursuant to a prescription issued by a health care professional who is authorized by statute to prescribe drugs. A pharmacy, hospital, or nonprofit clinic which accepts donated prescription drugs shall comply with all applicable federal and state laws dealing with the storage and distribution of dangerous

drugs and shall inspect all prescription drugs prior to dispensing the prescription drugs to determine that they are not adulterated as described in section 196.095. The pharmacy, hospital, or nonprofit clinic may charge persons receiving donated prescription drugs a handling fee, not to exceed a maximum of two hundred percent of the Medicaid dispensing fee, established by rule of the department promulgated pursuant to section 196.984. Prescription drugs donated to the program shall not be resold. Any individual who knowingly resells any donated prescription drugs pursuant to sections 196.970 to 196.984 shall be guilty of a class D felony.

196.981. IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY, WHEN. — 1. The following persons and entities when acting in good faith shall not be subject to criminal or civil liability for injury, death, or loss to person or property, or professional disciplinary action for matters related to donating, accepting, or dispensing prescription drugs under the prescription drug repository program:

- (1) The department of health and senior services;
- (2) The director of the department of health and senior services;
- (3) Any prescription drug manufacturer, governmental entity, or person donating prescription drugs to the program;
- (4) Any pharmacy, hospital, nonprofit clinic, or health care professional that prescribes, accepts or dispenses prescription drugs under the program; and
- (5) Any pharmacy, hospital, or nonprofit clinic that employs or has a hospital medical staff affiliation with a health care professional who accepts or dispenses prescription drugs under the program.

2. A prescription drug manufacturer shall not, in the absence of bad faith, be subject to criminal or civil liability for injury, death, or loss to person or property for matter related to the donation, acceptance, or dispensing of a prescription drug manufactured by the prescription drug manufacturer that is donated by any person under the program, including but not limited to liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

196.984. ADMINISTRATIVE RULES, AUTHORITY TO PROMULGATE. — 1. In consultation with the board of pharmacy, the director of the department of health and senior services shall adopt and promulgate rules to implement the prescription drug repository program. Such rules shall include:

- (1) Eligibility criteria for pharmacies, hospitals, and nonprofit clinics to receive and dispense donated prescription drugs under the program;
- (2) Standards and procedures for accepting, safely storing, and dispensing donated prescription drugs;
- (3) Standards and procedures for inspecting donated prescription drugs to determine that the original single-unit-dose packaging is sealed and tamper-evident and that the prescription drugs are unadulterated, safe, and suitable for dispensing;
- (4) Eligibility requirements for recipients in the program shall be based on economic need for persons to receive prescription drugs under the program. For purposes of this subdivision, "economic need" means a net family income below three hundred percent of the federal poverty level;
- (5) An identification card by which a person who is eligible to receive donated prescription drugs under the program may demonstrate eligibility to the pharmacy, hospital, or nonprofit clinic;
- (6) A form that a person receiving a prescription drug from the program must sign before receiving the drug to confirm that such person understands the criminal and civil immunity from liability provisions of the program;
- (7) Establish a maximum handling fee that pharmacies, hospitals, and nonprofit clinics may charge to drug recipients to cover restocking and dispensing costs;

(8) For prescription drugs donated to the program by individuals:

(a) A list of prescription drugs, arranged by category or by individual drug, that the program will and will not accept from individuals. If a drug is ineligible for donation, the list must include a statement as to the reason the drug is ineligible for donation; and

(b) A form each donor must sign stating that the donor is the owner of the prescription drugs and intends to voluntarily donate such drugs to the program;

(9) For prescription drugs donated to the program by health care facilities, a list of prescription drugs, arranged by category or by individual drug, that the program will and will not accept from health care facilities. If a drug is ineligible for donation, the list must include a statement as to the reason the drug is ineligible for donation; and

(10) Any other standards and procedures the department deems appropriate or necessary to implement the provisions of sections 196.970 to 196.984.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 196.970 to 196.984 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 196.970 to 196.984 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

Approved July 2, 2004

SB 1172 [SCS SB 1172]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates an archival facility in the City of St. Louis for the preservation of public records.

AN ACT to amend chapter 109, RSMo, by adding thereto two new sections relating to the preservation of public records.

SECTION

A. Enacting clause.

109.400. Archival facility to be maintained, authority to enter into contracts and receive moneys.

109.410. Missouri State Archives — St. Louis Trust Fund established, use of funds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 109, RSMo, is amended by adding thereto two new sections, to be known as sections 109.400 and 109.410, to read as follows:

109.400. ARCHIVAL FACILITY TO BE MAINTAINED, AUTHORITY TO ENTER INTO CONTRACTS AND RECEIVE MONEYS. — 1. The secretary of state is hereby authorized:

(1) To plan, acquire, construct, develop, operate, and maintain, or to lease or sublease to or from others for acquisition, construction, development, operation, and maintenance, an archival facility located in a city not within a county to preserve documents of legal, historical, and genealogical importance to the state of Missouri, and to provide educational and outreach programs sponsored by the Missouri state archives;

(2) To enter into contracts and agreements with public or private persons, partnerships, associations, entities, corporations, and cities, counties, and other subdivisions of the state of Missouri such as might be necessary to promote the planning, acquisition, construction, development, operation, or maintenance of such facility and its programs; and

(3) To receive any grants, gifts, bequests, rentals, contributions, moneys, or properties appropriated or otherwise designated for payment to the secretary of state for the planning, acquisition, construction, development, operation, or maintenance of such facility and its programs by municipalities, counties, state, or other political subdivisions or public agencies or by the federal government or any agency or officer thereof or from any other public or private source.

2. Nothing in this section shall require any local agency, entity, or subdivision to transfer any records to the state archives.

109.410. MISSOURI STATE ARCHIVES — ST. LOUIS TRUST FUND ESTABLISHED, USE OF FUNDS. — 1. There is hereby established in the state treasury a special revolving fund to be known as the "Missouri State Archives-St. Louis Trust Fund". The fund shall consist of all moneys received from federal, private, or other sources for the planning, acquisition, construction, development, operation, or maintenance of the facility and programs authorized by section 109.400. The fund shall further consist of fees generated at the St. Louis facility for copying public records and for providing public access to public records and images, including staff time required for making copies and reproducing images.

2. The state treasurer shall be custodian of the Missouri state archives-St. Louis trust fund. Moneys in the fund shall be used exclusively for the planning, acquisition, construction, development, operation, or maintenance of the facility and programs authorized by section 109.400. No moneys obtained through the provisions of this section shall be made a part of the general operating budget of the state of Missouri, nor shall they be transferred into the general revenue fund. No moneys from the state general revenue fund shall be appropriated for the purposes of funding an archival facility located in any city not within a county as provided in sections 109.400 to 109.410. Notwithstanding section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of any biennium shall not revert to the credit of the general revenue fund. All yield, interest, income, increment, or gain received from time deposit of moneys in the state treasury to the credit of the fund shall be credited to the fund. Notwithstanding any provision of law to the contrary, no amount of moneys in the fund shall be transferred from the fund or charged for purposes of the administration of central services for the state of Missouri.

Approved July 2, 2004

SB 1181 [HCS SCS SB 1181]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies licensure of physical therapists and physical therapist assistants.

AN ACT to repeal sections 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, and 334.665, RSMo, and to enact in lieu thereof eight new sections relating to licensing of physical therapists and physical therapist assistants.

SECTION

- A. Enacting clause.
- 334.100. Denial, revocation or suspension of license, alternatives, grounds for — reinstatement provisions.
- 334.506. Physical therapists may provide certain services without prescription or direction of certain health care professionals, when — limitations.
- 334.530. Qualifications for license — examinations, scope — failure to pass examination, effect of, waiver permitted when.
- 334.540. License without examination, when — reciprocal agreements authorized, waiver permitted when.
- 334.550. Temporary license, issuance, fees.
- 334.655. Physical therapist assistant, required age, evidence of character and education, educational requirements — board examination, applications — written examination — failure to pass examination, effect of, waiver permitted when — examination topics — examination not required, when.
- 334.660. Reciprocity with other states.
- 334.665. Temporary license.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, and 334.665, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, and 334.665, to read as follows:

334.100. DENIAL, REVOCATION OR SUSPENSION OF LICENSE, ALTERNATIVES, GROUNDS FOR — REINSTATEMENT PROVISIONS. — 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

(4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:

(a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

(b) Attempting, directly or indirectly, by way of intimidation, coercion or deception, to obtain or retain a patient or discourage the use of a second opinion or consultation;

(c) Willfully and continually performing inappropriate or unnecessary treatment, diagnostic tests or medical or surgical services;

(d) Delegating professional responsibilities to a person who is not qualified by training, skill, competency, age, experience or licensure to perform such responsibilities;

(e) Misrepresenting that any disease, ailment or infirmity can be cured by a method, procedure, treatment, medicine or device;

(f) Performing or prescribing medical services which have been declared by board rule to be of no medical or osteopathic value;

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

(i) Exercising influence within a physician-patient relationship for purposes of engaging a patient in sexual activity;

(j) Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient;

(k) Failing to furnish details of a patient's medical records to other treating physicians or hospitals upon proper request; or failing to comply with any other law relating to medical records;

(l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;

(m) Failure to comply with any subpoena or subpoena duces tecum from the board or an order of the board;

(n) Failure to timely pay license renewal fees specified in this chapter;

(o) Violating a probation agreement with this board or any other licensing agency;

(p) Failing to inform the board of the physician's current residence and business address;

(q) Advertising by an applicant or licensee which is false or misleading, or which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by any other physician. An applicant or licensee shall also be in violation of this provision if the applicant or licensee has a

financial interest in any organization, corporation or association which issues or conducts such advertising;

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure, on more than one occasion, to use that degree of skill and learning ordinarily used under the same or similar circumstances by the member of the applicant's or licensee's profession;

(6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether or not voluntarily agreed to by the licensee or applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while actually under investigation by any licensing authority, medical facility, branch of the armed forces of the United States of America, insurance company, court, agency of the state or federal government, or employer;

(9) A person is finally adjudged incapacitated or disabled by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(14) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth, death or other certificate or document executed in connection with the practice of the person's profession;

(15) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

(16) Using, or permitting the use of, the person's name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(17) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208,

RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

(18) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof; maintaining an unsanitary office or performing professional services under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office of a physician or in any health care facility to the board, in writing, within thirty days after the discovery thereof;

(19) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, **notwithstanding section 334.010 to the contrary**, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, RSMo, [or] as a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing;

(20) Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by professional physical therapy and as authorized by sections 334.500 to 334.620;

(21) Any person licensed to practice as a physician or surgeon, requiring, as a condition of the physician-patient relationship, that the patient receive prescribed drugs, devices or other professional services directly from facilities of that physician's office or other entities under that physician's ownership or control. A physician shall provide the patient with a prescription which may be taken to the facility selected by the patient and a physician knowingly failing to disclose to a patient on a form approved by the advisory commission for professional physical therapists as established by section 334.625 which is dated and signed by a patient or guardian acknowledging that the patient or guardian has read and understands that the physician has a pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment and that the prescribed treatment is available on a competitive basis. This subdivision shall not apply to a referral by one physician to another physician within a group of physicians practicing together;

(22) A pattern of personal use or consumption of any controlled substance unless it is prescribed, dispensed or administered by another physician who is authorized by law to do so;

(23) Revocation, suspension, limitation or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not;

(24) For a physician to operate, conduct, manage, or establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, RSMo, and such facility has failed to obtain or renew a license as an ambulatory surgical center;

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licensee graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical

Association or American Osteopathic Association, then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of this section.

3. Collaborative practice arrangements, protocols and standing orders shall be in writing and signed and dated by a physician prior to their implementation.

4. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the board may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

6. Before restoring to good standing a license, certificate or permit issued pursuant to this chapter which has been in a revoked, suspended or inactive state for any cause for more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.

7. In any investigation, hearing or other proceeding to determine a licensee's or applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall be

discoverable by the board and admissible into evidence, regardless of any statutory or common law privilege which such licensee, applicant, record custodian or patient might otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee, applicant or record custodian and a patient.

334.506. PHYSICAL THERAPISTS MAY PROVIDE CERTAIN SERVICES WITHOUT PRESCRIPTION OR DIRECTION OF CERTAIN HEALTH CARE PROFESSIONALS, WHEN — LIMITATIONS. — 1. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from providing educational resources and training, developing fitness or wellness programs for asymptomatic persons, or providing screening or consultative services within the scope of physical therapy practice without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing, except that no physical therapist shall initiate treatment for a new injury or illness without the prescription or direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing.

2. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from examining and treating, without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing, any person with a recurring, self-limited injury within one year of diagnosis by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing, or any person with a chronic illness that has been previously diagnosed by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing, except that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection, shall not change an existing physical therapy referral available to the physical therapist without approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing, any patient whose medical condition should, at the time of examination or treatment, be determined to be beyond the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing, any person whose condition, for which physical therapy services are rendered pursuant to this

subsection, has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever shall come first. If the person's condition for which physical therapy services are rendered under this subsection shall be documented to be progressing toward documented treatment goals, a physical therapist may continue treatment without referral from a physician, chiropractor, dentist or podiatrist, whose license is in good standing. If treatment rendered under this subsection is to continue beyond thirty days, a physical therapist shall notify the patient's current physician, chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation. A physical therapist shall also perform such notification before continuing treatment rendered under this subsection for each successive period of thirty days.

3. The provision of physical therapy services of evaluation and screening pursuant to this section, shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section, may not be delegated. Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the provisions of subsection 2 of this section, may be delegated by physical therapists to physical therapist assistants only if the patient's current physician, chiropractor, dentist, or podiatrist has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection 2 of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing. Nothing in this subsection shall prohibit a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction**, whose license is in good standing, from acting within the scope of their practice as defined by the applicable chapters of RSMo.

4. No person licensed to practice, or applicant for licensure, as a physical therapist or physical therapist assistant shall make a medical diagnosis.

334.530. QUALIFICATIONS FOR LICENSE — EXAMINATIONS, SCOPE — FAILURE TO PASS EXAMINATION, EFFECT OF, WAIVER PERMITTED WHEN. — 1. A candidate for license to practice as a physical therapist shall be at least twenty-one years of age. A candidate shall furnish evidence of such person's good moral character and the person's educational qualifications by submitting satisfactory evidence of completion of a program of physical therapy education approved as reputable by the board. A candidate who presents satisfactory evidence of the person's graduation from a school of physical therapy approved as reputable by the American Medical Association or, if graduated before 1936, by the American Physical Therapy Association, or if graduated after 1988, the Commission on Accreditation for Physical Therapy Education or its successor, is deemed to have complied with the educational qualifications of this subsection.

2. Persons desiring to practice as physical therapists in this state shall appear before the board at such time and place as the board may direct and be examined as to their fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications set forth in subsection 1 of this section. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration. [The board shall not issue a permanent license to practice as a

physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.]

3. The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.

5. The examination of qualified candidates for licenses to practice physical therapy shall include a written examination and shall embrace the subjects taught in reputable programs of physical therapy education, sufficiently strict to test the qualifications of the candidates as practitioners. [The examination shall be given by the board at least once each year and shall be administered to all candidates, and the examination given at any particular time shall be the same for all candidates and the same subjects shall be included and the same questions shall be asked. Candidates shall be required to achieve a passing score, as determined by the board, on an examination before being issued a license.]

4.] 6. The examination shall embrace, in relation to the human being, the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology, psychology, physical therapy theory and procedures as related to medicine, surgery and psychiatry, and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice physical therapy.

[5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years, after which they may be destroyed.]

334.540. LICENSE WITHOUT EXAMINATION, WHEN — RECIPROCAL AGREEMENTS AUTHORIZED, WAIVER PERMITTED WHEN. — 1. The board shall issue a license to any physical therapist who is licensed in another jurisdiction and who has had no violations, suspensions or revocations of a license to practice physical therapy in any jurisdiction, provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of physical therapists in Missouri at the time the applicant applies for licensure.

2. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in subsection 1 of this section, shall be required to pay the same fee as the fee required to be paid by applicants who apply to take the examination before the board. Within the limits provided in this section, the board may negotiate reciprocal compacts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, the board shall not issue a license to any applicant who has failed three or more times any physical therapist

licensing examination administered in one or more states or territories of the United States or the District of Columbia.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(1) **The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;**

(2) **The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.**

334.550. TEMPORARY LICENSE, ISSUANCE, FEES. — [1. Upon the applicant paying a temporary license fee, the board shall issue without examination a temporary license to practice physical therapy for a period of time not to extend beyond the time when the results of the next examination are announced to any person who meets the qualifications of subsection 1 of section 334.530; provided that, the applicant has not previously been examined in one or more states or territories of the United States or the District of Columbia. The temporary license may be renewed at the discretion of the board and payment of the temporary license fee.

2. The board may once renew a temporary license issued pursuant to this section if the licensee fails to sit for the next scheduled examination; provided that, the applicant shows good and exceptional cause for failing to sit for the examination. The applicant shall state the good and exceptional cause in writing and shall verify such statement by oath. The board shall define good and exceptional cause by rules and regulations.

3. The board may issue a temporary license to any first-time applicant for licensure by examination if such person submits an agreement-to-supervise form which is signed by the applicant's supervising physical therapist.] **An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.530, may pay a temporary license fee and submit an agreement-to-supervise form, which is signed by the applicant's supervising physical therapist, to the board and obtain without examination a nonrenewable temporary license.** Such temporary licensee may only engage in the practice of physical therapy under the supervision of a licensed physical therapist. The board shall define the scope of such supervision by rules and regulations. **The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.**

334.655. PHYSICAL THERAPIST ASSISTANT, REQUIRED AGE, EVIDENCE OF CHARACTER AND EDUCATION, EDUCATIONAL REQUIREMENTS — BOARD EXAMINATION, APPLICATIONS — WRITTEN EXAMINATION — FAILURE TO PASS EXAMINATION, EFFECT OF, WAIVER PERMITTED WHEN — EXAMINATION TOPICS — EXAMINATION NOT REQUIRED, WHEN. — 1. A candidate for licensure to practice as a physical therapist assistant shall be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral character and of the person's educational qualifications. The educational requirements for licensure as a physical therapist assistant are:

(1) A certificate of graduation from an accredited high school or its equivalent; and

(2) Satisfactory evidence of completion of an associate degree program of physical therapy education accredited by the commission on accreditation of physical therapy education.

2. Persons desiring to practice as a physical therapist assistant in this state shall appear before the board at such time and place as the board may direct and be examined as to the person's fitness to engage in such practice. Applications for examination shall be in writing, on

a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications provided in subsection 1 of this section. Each application shall contain a statement that the statement is made under oath of affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration.

3. The examination of qualified candidates for licensure to practice as physical therapist assistants shall embrace a written examination and which shall cover the curriculum taught in accredited associate degree programs of physical therapy assistant education. Such examination shall be sufficient to test the qualification of the candidates as practitioners. [The examination shall be given by the board at least once each year. The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia. The examination given at any particular time shall be the same for all candidates and the same curriculum shall be included and the same questions shall be asked.]

4. The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia.

5. The board may waive the provisions of subsection 4 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

6. The examination shall include, as related to the human body, the subjects of anatomy, kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as related to medicine and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice as a physical therapist assistant.

[5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years and thereafter may be destroyed.

6.] **7. The board shall license without examination any legally qualified person who is a resident of this state and who was actively engaged in practice as a physical therapist assistant on August 28, 1993. The board may license such person pursuant to this subsection until ninety days after the effective date of this section.**

[7.] **8. A candidate to practice as a physical therapist assistant who does not meet the educational qualifications may submit to the board an application for examination if such person can furnish written evidence to the board that the person has been employed in this state for at least three of the last five years under the supervision of a licensed physical therapist and such person possesses the knowledge and training equivalent to that obtained in an accredited school. The board may license such persons pursuant to this subsection until ninety days after rules developed by the state board of healing arts regarding physical therapist assistant licensing become effective.**

334.660. RECIPROCITY WITH OTHER STATES. — 1. The board shall license without examination legally qualified persons who hold certificates of licensure, registration or certification in any state or territory of the United States or the District of Columbia, who have

had no violations, suspensions or revocations of such license, registration or certification, if such persons have passed a written examination to practice as a physical therapist assistant that was substantially equal to the examination requirements of this state and in all other aspects, including education, the requirements for such certificates of licensure, registration or certification were, at the date of issuance, substantially equal to the requirements for licensure in this state. [The board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.]

2. Board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia.

3. The board may waive the provisions of subsection 1 if the applicant has met one of the following provisions:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada.

4. Every applicant for a license pursuant to this section, upon making application and providing documentation of the necessary qualifications as provided in this section, shall pay the same fee required of applicants to take the examination before the board. Within the limits of this section, the board may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

334.665. TEMPORARY LICENSE. — [Upon the applicant paying a temporary fee, the board shall issue, without examination, a temporary license to practice as a physical therapist assistant for a period of time not to exceed beyond the time when the results of the next examination are announced to any person who meets the qualifications of section 334.655. The temporary license may be renewed at the discretion of the board and upon payment of a temporary license fee.] **An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.655 may pay a temporary license fee and submit an agreement-to-supervise form which is signed by the applicant's supervising physical therapist to the board and obtain without examination a nonrenewable temporary license. Such temporary licensee may only practice under the supervision of a licensed physical therapist. A licensed physical therapist shall supervise no more than one temporary licensee. The board shall define the scope of such supervision by rules and regulations. The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.**

Approved June 24, 2004

SB 1188 [SCS SB 1188]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies requirements for annuity contracts.

AN ACT to repeal section 376.671, RSMo, and to enact in lieu thereof two new sections relating to annuity contracts, with an expiration date and an emergency clause.

SECTION

- A. Enacting clause.
- 376.669. Annuity contract requirements — paid-up annuity benefits, how calculated — cash surrender benefits, how calculated — applicable, when.
- 376.671. Provisions which shall be contained in annuity contracts — expiration date.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 376.671, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 376.669 and 376.671, to read as follows:

376.669. ANNUITY CONTRACT REQUIREMENTS — PAID-UP ANNUITY BENEFITS, HOW CALCULATED — CASH SURRENDER BENEFITS, HOW CALCULATED — APPLICABLE, WHEN.

— **1.** This section shall not apply to any reinsurance, group annuity purchased under a retirement plan, or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code of 1986, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the effective date of this section as defined in subsection 11 of this section, no contract of annuity, except as stated in subsection 1 of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9 of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9 of this section. The company may reserve the right to defer the payment of the cash surrender benefit for a period not to exceed six months after demand therefor with surrender of the contract after making written request and receiving written approval of the director. The request shall address the necessity and equitability to all policyholders of the deferral;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of the benefits; and

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which the benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, a deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated

in the contract arising from prior considerations paid would be less than twenty dollars monthly, the company may at its option terminate the contract by payment in cash of the then present value of the portion of the paid-up annuity benefit, calculated on the basis on the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by this payment shall be relieved of any further obligation under the contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in subdivision (3) of this subsection of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of paragraphs (a) to (d) below:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in subdivision (3) of this subsection; and

(b) An annual contract charge of fifty dollars, accumulated at rates of interest as indicated in subdivision (3) of this subsection;

(c) Any premium tax paid by the company for the contract, accumulated at rates of interest as indicated in subdivision (3) of this subsection; and

(d) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during that contract year.

(3) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date under paragraph (d) of this subdivision;

(b) Reduced by one hundred twenty-five basis points;

(c) Where the resulting interest rate is not less than one percent; and

(d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year Constant Maturity Treasury Rate to be used at each redetermination date.

(4) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in paragraph (b) of subdivision (3) of this subsection by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The director may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the director, the director may disallow or limit the additional reduction.

(5) The director may adopt rules to implement the provisions of subdivision (4) of this subsection and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the director determines adjustments are justified.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts that provide cash surrender benefits, the cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine maturity value, and increased by any additional amounts credited by the company to the contract. For contracts that do not provide any death benefits prior to the commencement of any annuity payments, present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6 of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. A contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For a contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits,

if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9 of this section, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all such additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits that may be required by this section. The inclusion of such benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

11. Notwithstanding the provisions of section 376.671, after the effective date of this section, a company may elect to apply the provisions of this section in lieu of section 376.671 to annuity contracts on a contract form-by-contract form basis before July 1, 2006. In all other instances, this section shall become operative with respect to annuity contracts issued by the company after July 1, 2006.

376.671. PROVISIONS WHICH SHALL BE CONTAINED IN ANNUITY CONTRACTS — EXPIRATION DATE. — 1. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

2. In the case of contracts issued on or after the operative date of this section as defined in subsection 11 of this section, no contract of annuity, except as stated in subsection 1 of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract:

(1) That upon cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9 of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9 of this section. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the

portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 **of this section** of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(1) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payment shall be equal to an accumulation up to such time at a rate of interest of three percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(a) Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum; and

(b) The amount of any indebtedness to the company on the contract, including interest due and accrued and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars and less a collection charge of one dollar and twenty-five cents per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent of the net consideration for the first contract year and eighty-seven and one-half percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent;

(2) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(a) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent of the net consideration for the first contract year plus twenty-two and one-half percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years;

(b) The annual contract charge shall be the lesser of thirty dollars or ten percent of the gross annual consideration;

(3) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent, and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars;

(4) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2002, and before July 1, [2004] **2006**, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated, for the purpose of determining minimum nonforfeiture amounts, shall be one and one-half percent per annum.

4. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and

the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

5. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

6. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

7. For the purpose of determining the benefits calculated under subsections 5 and 6 of **this section**, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity date, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

8. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

9. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

10. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections 4, 5, 6, 7, and 9 of **this section**, additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum

nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

11. After September 28, 1979, any company may file with the director a written notice of its election to comply with the provisions of this section after a specified date before September 28, 1981. After the filing of such notice, then upon such specified date, which shall be the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this section for such company shall be September 28, 1981.

12. The provisions of this section shall expire on July 1, 2006.

SECTION B. EMERGENCY CLAUSE. — Because of the need to avoid a fifty-eight day period of time where no minimum nonforfeiture interest rates for individual deferred annuities would exist, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 21, 2004

SB 1195 [SCS SB 1195]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends certain prior service of juvenile court personnel to the definition of "juvenile court employee" for the purpose of retirement benefits.

AN ACT to repeal section 211.393, RSMo, and to enact in lieu thereof one new section relating to juvenile court personnel.

SECTION

A. Enacting clause.

211.393. Definitions — compensation of juvenile officers, apportionment — state to reimburse salaries, when — multicounty circuit provisions — local juvenile court budget, amount maintained, when — exclusion from benefits, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 211.393, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 211.393, to read as follows:

211.393. DEFINITIONS — COMPENSATION OF JUVENILE OFFICERS, APPORTIONMENT — STATE TO REIMBURSE SALARIES, WHEN — MULTICOUNTY CIRCUIT PROVISIONS — LOCAL JUVENILE COURT BUDGET, AMOUNT MAINTAINED, WHEN — EXCLUSION FROM BENEFITS, WHEN. — 1. For purposes of this section, the following words and phrases mean:

(1) "County retirement plan", any public employees' defined benefit retirement plan established by law that provides retirement benefits to county or city employees, but not to include the county employees' retirement system as provided in sections 50.1000 to 50.1200, RSMo;

(2) "Juvenile court employee", any person who is employed by a juvenile court in a position normally requiring one thousand hours or more of service per year but not including any [person whose position is] **service in such a position that was** financed in whole or in part by a public or private grant **on or after July 1, 1999;**

(3) "Juvenile officer", any juvenile officer appointed pursuant to section 211.351;

(4) "Multicounty circuit", all other judicial circuits not included in the definition of a single county circuit;

(5) "Single county circuit", a judicial circuit composed of a single county of the first classification, including the circuit for the city of St. Louis;

(6) "State retirement plan", the public employees' retirement plan administered by the Missouri state employees' retirement system pursuant to chapter 104, RSMo.

2. Juvenile court employees employed in a single county circuit shall be subject to the following provisions:

(1) The juvenile officer employed in such circuits on and prior to July 1, 1999, shall:

(a) Be state employees on that portion of their salary received from the state pursuant to section 211.381, and in addition be county employees on that portion of their salary provided by the county at a rate determined pursuant to section 50.640, RSMo;

(b) Receive state-provided benefits, including retirement benefits from the state retirement plan, on that portion of their salary paid by the state and may participate as members in a county retirement plan on that portion of their salary provided by the county except any juvenile officer whose service as a juvenile court officer is being credited based on all salary received from any source in a county retirement plan on June 30, 1999, shall not be eligible to receive state-provided benefits, including retirement benefits, or any creditable prior service as described in this section but shall continue to participate in such county retirement plan;

(c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service, if such service, was rendered in a judicial circuit that was not a single county of the first classification;

(d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect [within six months after July 1, 1999,] to forfeit their creditable service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service, determined as if the person were going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

(e) Receive creditable prior service for service rendered as a juvenile court employee in a position that was financed in whole or in part by a public or private grant prior to July 1, 1999, pursuant to the provisions of paragraph (e) of subdivision (1) of subsection 3 of this section;

(2) Juvenile officers who begin employment for the first time as a juvenile officer in a single county circuit on or after July 1, 1999, shall:

(a) Be county employees and receive salary from the county at a rate determined pursuant to section 50.640, RSMo, subject to reimbursement by the state as provided in section 211.381; and

(b) Participate as members in the applicable county retirement plan subject to reimbursement by the state for the retirement contribution due on that portion of salary reimbursed by the state;

(3) All other juvenile court employees who are employed in a single county circuit on or after July 1, 1999:

(a) Shall be county employees and receive a salary from the county at a rate determined pursuant to section 50.640, RSMo; and

(b) Shall, in accordance with their status as county employees, receive other county-provided benefits including retirement benefits from the applicable county retirement plan if such employees otherwise meet the eligibility requirements for such benefits;

(4) (a) The state shall reimburse each county comprised of a single county circuit for an amount equal to the greater of:

a. Twenty-five percent of such circuit's total juvenile court personnel budget, excluding the salary for a juvenile officer, for calendar year 1997, and excluding all costs of retirement, health and other fringe benefits; or

b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

[c.] (b) The state may reimburse a single county circuit up to fifty percent of such circuit's total calendar year 1997 juvenile court personnel budget, subject to appropriations. The state may reimburse, subject to appropriations, the following percentages of such circuits' total juvenile court personnel budget, expended for calendar year 1997, excluding the salary for a juvenile officer, and excluding all costs of retirement, health and other fringe benefits: thirty percent beginning July 1, 2000, until June 30, 2001; forty percent beginning July 1, 2001, until June 30, 2002; fifty percent beginning July 1, 2002; however, no county shall receive any reimbursement from the state in an amount less than the greater of:

[i.] a. Twenty-five percent of the total juvenile court personnel budget of the single county circuit expended for calendar year 1997, excluding fringe benefits; or

[ii.] b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

(5) Each single county circuit shall file a copy of its initial 1997 and each succeeding year's budget with the office of administration after January first each year and prior to reimbursement. The office of administration shall make payment for the reimbursement from appropriations made for that purpose on or before July fifteenth of each year following the calendar year in which the expenses were made. The office of administration shall submit the information from the budgets relating to full-time juvenile court personnel from each county to the general assembly;

(6) Any single county circuit may apply to the office of the state courts administrator to become subject to subsection 3 of this section, and such application shall be approved subject to appropriation of funds for that purpose;

(7) The state auditor may audit any single county circuit to verify compliance with the requirements of this section, including an audit of the 1997 budget.

3. Juvenile court employees in multicounty circuits shall be subject to the following provisions:

(1) Juvenile court employees including detention personnel hired in 1998 in those multicounty circuits who began actual construction on detention facilities in 1996, employed in a multicounty circuit on or after July 1, 1999, shall:

(a) Be state employees and receive all salary from the state, which shall include any salary as provided in section 211.381 in addition to any salary provided by the applicable county or counties during calendar year 1997 and any general salary increase approved by the state of Missouri for fiscal year 1999 and fiscal year 2000;

(b) Participate in the state retirement plan;

(c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service if such service was rendered in a judicial circuit that was not a single county of the first classification, **except that if they forfeited such credit in such county retirement plan prior to being eligible to receive creditable prior service under this paragraph, they may receive creditable service under this paragraph;**

(d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect within six months from the date they become participants in the state retirement plan pursuant to this section to forfeit their service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

(e) Receive creditable prior service for service rendered as a juvenile court employee in a position that was financed in whole or in part by a public or private grant prior to July 1, 1999:

a. Pursuant to paragraph (c) of this subdivision, except that if they already received credit for such creditable service in a county retirement plan, they may not receive creditable prior service pursuant to paragraph (c) of this subdivision unless they elect to forfeit their service from such plan, in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial liability for the forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

b. Pursuant to subparagraph a. of this paragraph, if they terminated employment prior to August 28, 2004, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement;

c. Pursuant to subparagraph a. of this paragraph, if they retired prior to August 28, 2004, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement, in which case they shall have their retirement benefits adjusted so they receive retirement benefits equal to the amount they would have received had their retirement benefit been initially calculated to include such creditable prior service;

d. Pursuant to subparagraph a. of this paragraph, if they purchased creditable prior service pursuant to section 104.344, RSMo, or section 105.691, RSMo, based on service as a juvenile court employee in a position that was financed in whole or in part by a public or private grant prior to July 1, 1999, in which case they shall receive a refund based on the amount paid for such purchased service;

(2) Juvenile court employee positions added after December 31, 1997, shall be terminated and not subject to the provisions of subdivision (1) of this subsection, unless the office of the state courts administrator requests and receives an appropriation specifically for such positions;

(3) The salary of any juvenile court employee who becomes a state employee, effective July 1, 1999, shall be limited to the salary provided by the state of Missouri, which shall be set in accordance with guidelines established by the state pursuant to a salary survey conducted by the office of the state courts administrator, but such salary shall in no event be less than the amount specified in paragraph (a) of subdivision (1) of this subsection. Notwithstanding any provision to the contrary in subsection 1 of section 211.394, such employees shall not be entitled to additional compensation paid by a county as a public officer or employee. Such employees shall be considered employees of the judicial branch of state government for all purposes;

(4) All other employees of a multicounty circuit who are not juvenile court employees as defined in subsection 1 of this section shall be county employees subject to the county's own terms and conditions of employment.

4. The receipt of creditable prior service as described in paragraph (c) of subdivision (1) of subsection 2 of this section and paragraph (c) of subdivision (1) of subsection 3 of this section is contingent upon the office of the state courts administrator providing the state retirement plan information, in a form subject to verification and acceptable to the state retirement plan, indicating the dates of service and amount of monthly salary paid to each juvenile court employee for such creditable prior service.

5. No juvenile court employee employed by any single or multicounty circuit shall be eligible to participate in the county employees' retirement system fund pursuant to sections 50.1000 to 50.1200, RSMo.

6. Each county in every circuit in which a juvenile court employee becomes a state employee shall maintain each year in the local juvenile court budget an amount, defined as "maintenance of effort funding", not less than the total amount budgeted for all employees of the juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court employees in calendar year 1997, minus the state reimbursements as described in this section received for the calendar year 1997 personnel costs for the salaries of all such juvenile court employees who become state employees. The juvenile court shall provide a proposed budget to the county commission each year. The budget shall contain a separate section specifying all funds to be expended in the juvenile court. Such funding may be used for contractual costs for detention services, guardians ad litem, transportation costs for those circuits without detention facilities to transport children to and from detention and hearings, short-term residential services, indebtedness for juvenile facilities, expanding existing detention facilities or services, continuation of services funded by public grants or subsidy, and enhancing the court's ability to provide prevention, probation, counseling and treatment services. The county commission may review such budget and may appeal the proposed budget to the judicial finance commission pursuant to section 50.640, RSMo.

7. Any person who is employed on or after July 1, 1999, in a position covered by the state retirement plan or the transportation department and highway patrol retirement system and who has rendered service as a juvenile court employee in a judicial circuit that was not a single county of the first classification shall be eligible to receive creditable prior service in such plan or system as provided in subsections 2 and 3 of this section. For purposes of this subsection, the provisions of paragraphs (c) and (d) of subdivision (1) of subsection 2 of this section and paragraphs (c) and (d) of subdivision (1) of subsection 3 of this section that apply to the state retirement plan shall also apply to the transportation department and highway patrol retirement system.

8. (1) Any juvenile officer who is employed as a state employee in a multicounty circuit on or after July 1, 1999, shall not be eligible to participate in the state retirement plan as provided by this section unless such juvenile officer elects to:

(a) Receive retirement benefits from the state retirement plan based on all years of service as a juvenile officer and a final average salary which shall include salary paid by the county and the state; and

(b) Forfeit any county retirement benefits from any county retirement plan based on service rendered as a juvenile officer;

(2) Upon making the election described in this subsection, the county retirement plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions.

9. The elections described in this section shall be made on forms developed and made available by the state retirement plan.

Approved July 2, 2004

SB 1196 [HS SCS SB 1196]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to fireworks regulation.

AN ACT to repeal sections 320.094, 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151, and 320.161, RSMo, and to enact in lieu thereof ten new sections relating to fireworks regulations, with penalty provisions.

SECTION

A. Enacting clause.

- 320.094. Fire education fund created, annual transfers — treasurer to administer fund — transfer from general revenue — fire education trust fund established, administration, board, members — appropriation to division of fire safety — fire education commission established, members, terms, compensation, meetings, duties.
- 320.106. Definitions.
- 320.111. Manufacture, distribution and sale, permit required — issuance, display of, duration — powers and duties of state fire marshal, inspections — fees — rights and obligations of permit holders — rules, procedure — penalty for violation.
- 320.116. Revocation and refusal of permits, when — illegal fireworks seized as contraband, return of, procedure, costs — review of action by state fire marshal, how.
- 320.126. Special fireworks — possession and sale of limited, how, to whom — displays, financial responsibility, proof of — inspection of certain venues.
- 320.131. Possession, sale and use of certain fireworks prohibited — restrictions — label required — items not regulated.
- 320.136. Ground salutes, special type, prohibited.
- 320.146. Display and storage of fireworks, restrictions on.
- 320.151. Sales to children, sales by children, unlawful, exceptions — exploding fireworks near gasoline pumps, certain buildings or from or at motor vehicles, prohibited — certain restrictions — demonstrating and testing allowed, requirements.
- 320.161. Penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 320.094, 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151, and 320.161, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 320.094, 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151, and 320.161, to read as follows:

320.094. FIRE EDUCATION FUND CREATED, ANNUAL TRANSFERS — TREASURER TO ADMINISTER FUND — TRANSFER FROM GENERAL REVENUE — FIRE EDUCATION TRUST FUND ESTABLISHED, ADMINISTRATION, BOARD, MEMBERS — APPROPRIATION TO DIVISION OF FIRE SAFETY — FIRE EDUCATION COMMISSION ESTABLISHED, MEMBERS, TERMS, COMPENSATION, MEETINGS, DUTIES. — 1. The state treasurer shall annually transfer an amount prescribed in subsection 2 of this section out of the state revenues derived from premium taxes levied on insurance companies pursuant to sections 148.310 to 148.461, RSMo, which are deposited by the director of revenue in the general revenue fund pursuant to section 148.330, RSMo, in a fund hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest earned from investment of moneys in the fund, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly, shall be credited to the fund. The state treasurer shall administer the fund, and the moneys in such fund shall be used solely as prescribed in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fire education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

2. Beginning July 1, 1998, three percent of the amount of premium taxes collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461, RSMo, which are deposited in the general revenue fund that exceeds the amount of premium taxes which were deposited in the general revenue fund in the 1997 fiscal year shall be transferred from the general revenue fund to the credit of the fire education fund. At the end of each fiscal year, the commissioner of administration shall determine the amount transferred to the credit of the fire education fund in each fiscal year by computing the premium taxes deposited in the general revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes

deposited in the general revenue fund in the 1997 fiscal year. An amount equal to three percent of the increase computed pursuant to this section shall be transferred by the state treasurer to the credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one million five hundred thousand dollars.

3. There is hereby established a special trust fund, to be known as the "Missouri Fire Education Trust Fund", which shall consist of all moneys **collected per subsection 2 of this section** transferred to the fund from the fire education fund pursuant to this subsection, any earnings resulting from the investment of moneys in the fund, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly. Each fiscal year, an amount equal to forty percent of the moneys transferred to the fire education fund **collected pursuant to subsection 2 of this section** shall be transferred by the state treasurer to the credit of the Missouri fire education trust fund. The fund shall be administered by a board of trustees, consisting of the state treasurer, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, and two members appointed by the governor with the advice and consent of the senate. Any member appointed due to such person's membership in the senate or house of representatives shall serve only as long as such person holds the office referenced in this section. The state treasurer shall invest moneys in the fund in a manner as provided by law. Subject to appropriations, moneys in the fund shall be used solely for the purposes described in this section, but such appropriations shall be made only if the board recommends to the general assembly that such moneys are needed in that fiscal year to adequately fund the activities described in this section. Moneys shall accumulate in the trust fund until the earnings from investment of moneys in the fund can adequately support the activities described in this section, as determined by the board. At such time, the board may recommend that the general assembly adjust or eliminate the funding mechanism described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

4. The moneys in the fire education fund, after any distribution pursuant to subsection 3 of this section, [shall be distributed to the University of Missouri Fire & Rescue Training Institute and the institute shall use the moneys received under this subsection] **shall be appropriated to the division of fire safety** to coordinate education needs in cooperation with community colleges, colleges, regional training facilities, **fire and emergency services training entities** and universities of this state and shall provide training and continuing education to firefighters in this state relating to fire department operations and the personal safety of firefighters while performing fire department activities. Programs and activities funded under this subsection must be approved by the Missouri fire education commission established in subsection 5 of this section. These funds shall primarily be used to provide field education throughout the state, with not more than two percent of funds under this subsection expended on administrative costs.

5. There is established the "Missouri Fire Education Commission", to be domiciled in the division of fire safety within the department of public safety. The commission shall be composed of five members appointed by the governor with the advice and consent of the senate, consisting of one firefighter serving as a volunteer of a volunteer fire protection association, one full-time firefighter employed by a recognized fire department or fire protection district, one firefighter training officer, one person serving as the chief of a volunteer fire protection association, and one chief fire officer from a recognized fire department or fire protection district. No more than three members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of four years, two shall have a term of three years and one shall have a term of two years. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause. The members shall at their initial

meeting select a chair. All members of the commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. The commission shall meet at least quarterly at the call of the chair and shall review and determine appropriate programs and activities for which funds may be expended under subsection 4 of this section.

320.106. DEFINITIONS. — As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the following terms mean:

(1) ["Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;] **"American Pyrotechnics Association (APA), Standard 87-1"; or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;**

(2) **"Chemical composition", all pyrotechnic and explosive composition contained in fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;**

[(2)] (3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion[. This term] **and includes aerial devices and ground devices, all of which are classified as fireworks, UNO336, 1.4G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class C common fireworks by regulation of the United States Department of Transportation;**

(4) **"Discharge site", the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;**

(5) **"Display site", the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or vehicle parking areas;**

(6) **"Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UNO335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation;**

(7) **"Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;**

(8) **"Fireworks", any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United States Department of Transportation hazardous materials regulations, and American Pyrotechnics Association 87-1 standards;**

[(3)] (9) **"Fireworks season", the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that seasonal retailers may be permitted to sell consumer fireworks;**

[(4)] (10) **"Jobber", any person engaged in the business of making sales of consumer fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;**

(11) **"Licensed operator"**, any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

[(5)] (12) **"Manufacturer"**, any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;

(13) **"NFPA", National Fire Protection Association; an international codes and standards organization;**

[(6)] (14) **"Permanent structure"**, buildings and structures with permanent foundations other than tents, mobile homes, and trailers;

[(7)] (15) **"Permit"**, the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

[(8)] (16) **"Person"**, any corporation, association, partnership or individual or group thereof;

(17) **"Proximate fireworks"**, a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, as defined by the most current edition of the American Pyrotechnics Association (APA), Standard 87-1, section 3.8, specific requirements for theatrical pyrotechnics;

(18) **"Pyrotechnic operator" or "special effects operator"**, an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

[(9)] (19) **"Sale"**, an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;

[(10)] (20) **"Seasonal retailer"**, any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subdivision [(3)] (9) of this section;

[(11)] **"Special fireworks"**, explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation;

[(12)] (21) **"Wholesaler"**, any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

320.111. MANUFACTURE, DISTRIBUTION AND SALE, PERMIT REQUIRED — ISSUANCE, DISPLAY OF, DURATION — POWERS AND DUTIES OF STATE FIRE MARSHAL, INSPECTIONS — FEES — RIGHTS AND OBLIGATIONS OF PERMIT HOLDERS — RULES, PROCEDURE — PENALTY FOR VIOLATION. — 1. It is unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into or within the state of Missouri except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler, jobber or seasonal retailer from the state fire marshal **and applicable federal permit or license**. Possession of said permit is a condition precedent to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the state of Missouri, except as herein provided. This provision applies to nonresidents as well as residents of the state of Missouri.

2. The state fire marshal has the authority and is authorized and directed to issue permits for the sale of fireworks. No permit shall be issued to a person under the age of eighteen years.

All permits except for seasonal retailers shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December of each year.

3. Permits issued must be displayed in the permit holder's place of business. No permit provided for herein shall be transferable nor shall a person operate under a permit issued to another person or under a permit issued for another location. Manufacturer, **wholesaler, jobber,** and distributor permit holders operating out of multiple locations shall obtain a permit for each location.

4. Failure to make application for a permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a license to the licensee or applicant for such calendar year.

5. **Any false statement or declaration made on a permit application may result in the state fire marshal's refusal to issue such permit to the requesting person for a period of time not to exceed three years.**

6. The state fire marshal is authorized and directed to charge the following fees for permits:

(1) Manufacturer, a fee of seven hundred [fifty] **seventy-five** dollars per **calendar** year;

(2) Distributor, a fee of seven hundred [fifty] **seventy-five** dollars per **calendar** year;

(3) Wholesaler, a fee of two hundred [fifty] **seventy-five** dollars per **calendar** year;

(4) Jobber, a fee of five hundred **twenty-five** dollars per **calendar** year per sales location;

(5) Seasonal retailer, a fee of [twenty-five] **fifty** dollars per **calendar** year per sales location;

(6) [Special] **Display** fireworks [(displays)], a fee of [twenty-five] **one hundred** dollars per **calendar** year per location;

(7) **Proximate fireworks display permit, a fee of one hundred dollars per calendar year per location;**

(8) **Licensed operator, a fee of one hundred dollars for a three-year license;**

(9) **Pyrotechnic operator, a fee of one hundred dollars for a three-year license.**

[6.] 7. A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell [special] **display, or proximate** fireworks.

[7.] 8. A holder of a distributor's permit shall not be required to have any additional permits in order to sell to wholesalers, jobbers, seasonal retailers or to sell [special] **display, or proximate** fireworks.

[8.] 9. A holder of a jobber's permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobber's permanent structure.

[9.] 10. All fees collected for permits issued pursuant to this section shall be [paid to the Missouri department of revenue and deposited in the general revenue fund] **deposited to the credit of the fire education fund created pursuant to section 320.094.** Any person engaged in more than one permit classification shall pay one permit fee based upon the permit classification yielding the highest amount of revenue.

[10.] 11. The state fire marshal is charged with the enforcement of the provisions of sections 320.106 to 320.161 and may call upon any state, county or city peace officer for assistance in the enforcement of the provisions of sections 320.106 to 320.161. The state fire marshal may promulgate rules pursuant to the requirements of this section and chapter 536, RSMo, **necessary to carry out his or her responsibilities under this act including rules requiring training, examination, and licensing of licensed operators and pyrotechnic operators engaging in or responsible for the handling and use of display and proximate fireworks. The test shall incorporate the rules of the state fire marshal, which shall be based upon nationally recognized standards.** No rule or portion of a rule promulgated pursuant to this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[11.] 12. The state fire marshal, upon notification by the department of revenue, may withhold permits from applicants upon evidence that all state sales taxes for the preceding year

or years have not been paid; except, this subsection shall not apply if an applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.

[12.] **13.** A holder of a **distributor, wholesaler, or** jobber's permit shall be required to operate out of a permanent structure in compliance with all applicable building **and fire** regulations in the city or county in which said person is [selling consumer] **operating a fireworks business. Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations, the applicant may be subject to a fire safety inspection by the state fire marshal based upon promulgated rules and regulations adopted by the state fire marshal.**

[13.] **14.** It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the state fire marshal **for the current permit period.** A seasonal retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided that such seasonal retailer is purchasing the consumer fireworks for resale in this state.

[14.] **15.** The state fire marshal and the marshal's deputies may conduct inspections of any premises and all portions of buildings where fireworks are stored, **manufactured, kept** or being offered for sale. [Licensees] **All persons selling, offering for sale, barter, gift, exchange, or offer thereof any fireworks** shall cooperate fully with the state fire marshal and the marshal's deputies during any such inspection. **This inspection shall be performed during normal business hours.**

16. In addition to any other penalty, any person who manufactures, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into the state of Missouri, for use in Missouri, any items of fireworks without first having the required applicable permit, shall be assessed a civil penalty of up to a one thousand dollar fine for each day of operation up to a maximum of ten thousand dollars.

320.116. REVOCATION AND REFUSAL OF PERMITS, WHEN — ILLEGAL FIREWORKS SEIZED AS CONTRABAND, RETURN OF, PROCEDURE, COSTS — REVIEW OF ACTION BY STATE FIRE MARSHAL, HOW. — 1. The state fire marshal may revoke any permit issued pursuant to sections 320.106 to 320.161 upon evidence that the holder has violated any of the provisions of sections 320.106 to 320.161.

2. The state fire marshal, in his or her discretion, may refuse to issue a permit, for a period not to exceed three years, to a person whose permit has been revoked [as the result of a conviction] for the possession or sale of illegal fireworks, as referred to in section 320.136.

3. The state fire marshal, the marshal's deputies, the marshal's designees or any authorized police or peace officer shall seize as contraband any illegal fireworks as defined pursuant to sections 320.106 to 320.161. Such illegal fireworks seized in the enforcement of sections 320.106 to 320.161 shall be held in custody of the state fire marshal in proper storage facilities. The person surrendering the fireworks may bring in a rem proceeding in the circuit court of the county where the fireworks were seized. Upon hearing, the circuit court may authorize the return of all or part of the confiscated fireworks or the court may authorize and direct that such contraband fireworks be destroyed. If a proceeding is not brought within thirty days, the fireworks shall be destroyed by the state fire marshal. The state fire marshal shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of the provisions of sections 320.106 to 320.161. **All costs, including any expenses incurred with the seizure, shall be the responsibility of the adjudicated party if case disposition is in the favor of the state fire marshal.**

4. Any person aggrieved by any official action of the state fire marshal affecting their [licensed] **permit** status including revocation, suspension, failure to renew a [license] **permit**, or refusal to grant a [license] **permit** may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo.

320.126. SPECIAL FIREWORKS — POSSESSION AND SALE OF LIMITED, HOW, TO WHOM — DISPLAYS, FINANCIAL RESPONSIBILITY, PROOF OF — INSPECTION OF CERTAIN VENUES.

— 1. Any person [possessing or], **entity, partnership, corporation, or association** transporting [special] **display or proximate fireworks or display and proximate fireworks** into the state of Missouri for the purpose of resale or to conduct a [special firework] display shall be [licensed] **permitted** by the state fire marshal as a distributor **or manufacturer and have obtained applicable federal license or permit.**

2. [Possession and] Sale of [special] **display or proximate fireworks** shall be limited to a holder of a federal license or **permit and** a distributor or manufacturer permit issued [for special fireworks displays] **by the state fire marshal.**

3. Possession of [special] **display or proximate fireworks** for resale to holders of a permit for [public] display **or proximate fireworks** shall be confined to holders of a state manufacturer or distributor permit **and applicable federal license or permit.**

4. Permits for [public displays for special] **display or proximate fireworks** may be granted to municipalities, fair associations, amusement parks, organizations, **persons,** firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local fire service authorities of the community where the display is proposed to be held. **All applications submitted for display or proximate fireworks permits, must be submitted to the office of the state fire marshal a minimum of ten working days prior to the date of the event. The application shall be made on a form provided or approved by the state fire marshal.** Every such display **shall be supervised, managed, or directed by a Missouri licensed operator, or pyrotechnic operator on site pursuant to subsections 11 and 18 of section 320.106 and** shall be located, discharged, or fired so as in the opinion of the [chief of the fire department, after proper inspection] **permitting authority, after proper inspection based on the most current edition of the National Fire Protection Association standards, NFPA 1123, 1124, and 1126,** to not be hazardous to any person or property. After a permit has been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. A copy of all permits issued for [special] **display or proximate fireworks [displays]** shall be forwarded **by the permit holder** to the state fire marshal's office. No permit granted hereunder shall be transferable **and shall apply to only one location. No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.**

5. Possession of display or proximate fireworks shall be limited to a holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks is proposed to be held or the state fire marshal or holder of a state manufacturer or distributor permit and applicable federal license or permit.

[5.] 6. Before **issuing** any permit for a [special] **display or proximate fireworks** [display shall be issued,] the municipality, fair association, amusement park, organization, firm, **persons,** or corporation making application therefor shall furnish proof of financial responsibility **in an amount established by promulgated rule** to the permitting authority in order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof.

7. **Any establishment where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local fire department having jurisdiction for compliance with NFPA 101 Life Safety Code or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems. All permits issued will be forwarded to the state fire marshal by the permit holder. Permits will be issued in the same manner as those required in section 320.126.**

320.131. POSSESSION, SALE AND USE OF CERTAIN FIREWORKS PROHIBITED — RESTRICTIONS — LABEL REQUIRED — ITEMS NOT REGULATED. — 1. It is unlawful for any

person to possess, sell or use within the state of Missouri, or ship into the state of Missouri, except as provided in section 320.126, any pyrotechnics commonly known as "fireworks" and defined as consumer fireworks in subdivision [(2)] (3) of section 320.106 other than items now or hereafter classified as fireworks UNO336, 1.4G by the United States Department of Transportation that comply with the construction, chemical composition, labeling and other regulations relative to consumer fireworks regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public pursuant to such commission's regulations.

2. No [retailer, dealer] **wholesaler, jobber, or seasonal retailer**, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UNO336, 1.4G by the United States Department of Transportation.

3. No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer dealers, or any other person, in this state for the purpose of resale, or use, in this state, any consumer fireworks which do not have the numbers and letter "1.4G" printed within an orange, diamond-shaped label printed on or attached to the fireworks shipping carton.

4. This section does not prohibit a manufacturer, distributor or any other person from storing, selling, shipping or otherwise transporting [special] **display or proximate** fireworks, defined as fireworks UNO335, 1.3G/**UN0431, 1.4G or UN0432, 1.4S** by the United States Department of Transportation, provided they possess the proper [licensing] **permits** as specified by state and federal law.

5. Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound, provided that they are so constructed that the hand cannot come into contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of explosive mixture shall be permitted for sale and use at all times and shall not be regulated by the provisions of sections 320.106 to 320.161.

320.136. GROUND SALUTES, SPECIAL TYPE, PROHIBITED. — Ground salutes commonly known as "cherry bombs", "M-80's", "M-100's", "M-1000's", and [various] **any** other tubular salutes **or any items described as prohibited chemical components or forbidden devices as listed in the American Pyrotechnics Association Standard 87-1** or which exceed the federal limits set for fireworks UNO336, 1.4G formerly known as class C common fireworks, **display fireworks UN0335, 1.3F, and proximate fireworks UN0431, 1.4F/UN 0432, 1.4S** by the United States Department of Transportation for explosive composition are expressly prohibited from shipment into, manufacture, possession, sale, [and] **or** use within the state of Missouri for [any purpose] **consumer use**. Possession, sale, manufacture, or transport of this type of illegal explosive shall be punished as provided by the provisions of section 571.020, RSMo.

320.146. DISPLAY AND STORAGE OF FIREWORKS, RESTRICTIONS ON. — 1. It shall be unlawful to expose fireworks to direct sunlight through glass to the merchandise displayed, except where the fireworks are in the original package. All fireworks which the public may examine shall be kept for sale in original packages, except where an attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in showcases out of the reach of the public when an attendant is not on duty. One or more signs reading, "FIREWORKS — NO SMOKING" shall be displayed at all places where fireworks are stored or sold in letters not less than four inches in height.

2. Fireworks shall not be stored, kept or sold within fifty feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon. The provisions of this subsection shall not apply to stores where cleaners, paints, and oils are sold in the original containers to consumers.

3. It shall be unlawful to permit the presence of lighted cigars, cigarettes, pipes, or any other open flame within [ten] **twenty-five** feet of where fireworks are **manufactured, stored, kept, or** offered for sale.

4. Fireworks shall not be **manufactured**, stored, kept or sold within [fifty] **one hundred** feet of any [area in which] **dispensing unit for** ignitable liquids or gases [are stored above the surface of the ground].

320.151. SALES TO CHILDREN, SALES BY CHILDREN, UNLAWFUL, EXCEPTIONS — EXPLODING FIREWORKS NEAR GASOLINE PUMPS, CERTAIN BUILDINGS OR FROM OR AT MOTOR VEHICLES, PROHIBITED — CERTAIN RESTRICTIONS — DEMONSTRATING AND TESTING ALLOWED, REQUIREMENTS. — 1. It is unlawful to attempt to sell or to sell at retail any fireworks to children under the age of fourteen years except when such child is in the presence of a parent or guardian.

2. It is unlawful for any person under the age of sixteen to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless supervised by an adult.

3. It is unlawful to explode or ignite **consumer** fireworks within six hundred feet of any church, hospital, mental health facility, school, or within one hundred feet of [a permanent structure] **any location** where fireworks are stored, sold, or offered for sale.

4. No person shall ignite or discharge any permissible articles of **consumer** fireworks within or throw the same from a [motor] **motorized** vehicle **including watercraft or any other means of transportation, except where display permit has been issued for a floating vessel or floating platform**, nor shall any person place or throw any ignited article of fireworks into or at a [motor] **motorized** vehicle **including watercraft or any other means of transportation**, or at or near any person or group of people.

5. No person shall ignite or discharge **consumer** fireworks within three hundred feet of any **permanent storage of ignitable liquid, gases**, gasoline pump, gasoline filling station, or any nonpermanent structure where fireworks are stored, sold or offered for sale.

6. **No items of explosive or pyrotechnic composition other than fireworks as defined by subsections (3), (6), and (17) of section 320.106 shall be displayed, sold, or offered for sale within the applicable permit location as identified on such permit granted by the state fire marshal.**

7. **Proximate fireworks shall not be allowed to be stored with consumer fireworks.**

8. **All storage and transportation of fireworks shall be in accordance with all federal and state rules and regulations.**

9. Nothing in sections 320.106 to 320.161 shall be construed to prevent permittees from demonstrating or testing fireworks. Any such demonstration or test shall require the notification and approval of the local fire service or the state fire marshal.

320.161. PENALTY PROVISIONS. — [1.] Any person violating any provision of sections 320.106 to 320.161 [except section 320.136] is guilty of a class [B] **A** misdemeanor, **except that a person violating section 320.136 is guilty of a class C felony.**

[2. Any person violating the provisions of section 320.136 is guilty of a class A misdemeanor.]

Approved July 7, 2004

SB 1211 [HCS SB 1211]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to court personnel and procedures.

AN ACT to repeal sections 2.030, 2.040, 2.050, 2.060, 3.130, 56.750, 57.260, 105.711, 211.031, 211.141, 452.310, 452.423, 455.010, 455.501, 478.266, 478.725, 479.020, 482.330, 483.550, 488.429, 488.2275, 490.525, 491.300, 491.640, 494.400, 494.425, 494.430, 494.431, 494.445, 494.450, 494.460, 512.020, 512.180, 513.430, 513.440, 526.010, 526.020, 527.290, 535.020, 535.030, 537.046, 542.276, 544.020, 559.026, 570.030, 570.200, 570.210, 595.045, 595.050, 610.100, 630.130, and 632.498, RSMo, and to enact in lieu thereof fifty-eight new sections relating to court procedures and court personnel, with penalty provisions.

SECTION

- A. Enacting clause.
- 2.030. Legislative research to provide for printing and binding of laws.
- 2.040. Duties of legislative research in printing and binding.
- 2.050. Distribution of session laws.
- 2.060. Sale of laws.
- 3.130. Committee to determine number of copies — distribution.
- 56.750. Office of prosecution services created — purpose — services.
- 57.260. Duties — penalty for neglect (Marion County).
- 105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.
- 211.031. Juvenile court to have exclusive jurisdiction, when — exceptions — home schooling, attendance violations, how treated.
- 211.141. Child returned to parent, when, conditions — detention on order of court — detention without order, when — assessment of child required, when — random sampling of assessments.
- 452.025. Verified pleadings, form and content.
- 452.310. Petition, contents — service, how — rules to apply — defenses abolished — parenting plans submitted, when, content, exception.
- 452.423. Guardian ad litem appointed, when, duties — disqualification, when — fees — volunteer advocates, expenses.
- 455.010. Definitions.
- 455.090. Jurisdiction, duration — enforceability of orders.
- 455.501. Definitions.
- 472.075. Clerk and certain personnel of probate division to be appointed by judge (St. Louis City).
- 476.800. Definitions.
- 476.810. Appointment of interpreters and translators, when — waiver, when — oath required.
- 476.820. Fee for service, amount, paid by whom.
- 478.266. Probate division, commissioner authorized, certain counties, compensation, commissioner's orders, rejection or confirmation — deputy commissioner, certain counties and cities, appointment, term — powers and duties.
- 479.020. Municipal judges, selection, tenure, jurisdiction, qualifications, course of instruction.
- 482.330. Restrictions on filing of claims — statement required of plaintiff — counterclaim not prohibited — suit may be brought, where.
- 483.537. Passports, accounting for fees charged, disbursed how.
- 483.550. Clerks to charge, collect court costs, when.
- 488.429. Fund paid to treasurer designated by circuit judge — use of fund for law library, and courtroom renovation and technology enhancement in certain counties.
- 488.2275. Additional surcharge authorized for criminal cases (Greene, Cass, and Jefferson counties), violations of county and city ordinances, exceptions — use of revenue.
- 490.525. Affidavit stating amount charged was reasonable and necessary, effect — restrictions — service — counteraffidavit, requirements — notice.
- 491.640. Prosecutors coordinators training council may provide for security of witnesses and families, when — powers — request by law enforcement agencies, content — delegation of program administration, to whom.
- 494.400. Qualifications of jurors, selection, exclusions prohibited.
- 494.425. Persons ineligible for jury service.
- 494.430. Persons entitled to be excused from jury service — determinations made by judge — undue or extreme physical or financial hardship defined — documentation required, when.
- 494.432. Postponement of jury duty, when.
- 494.445. Petit jurors, maximum number of days required to serve, exception.
- 494.450. Juror nonattendance, criminal contempt, fine.
- 494.460. Employers prohibited from disciplining employees because of jury duty, action for damages, attorney fees — employees not required to use leave for jury duty — automatic postponement of jury duty, when.
- 512.020. Who may appeal.

- 512.180. Appeals from cases tried before associate circuit judge.
- 513.430. Property exempt from attachment — benefits from certain employee plans, exception — bankruptcy proceeding, fraudulent transfers, exception — construction of section.
- 513.440. Other property exempt — provisions — exceptions.
- 526.010. Injunctions granted by certain courts.
- 527.290. Notice of change to be given, when and how — not required, when.
- 535.020. Procedure to recover possession — filing of statement — issuance of summons — procedure.
- 535.030. Service of summons — court date included in summons.
- 537.046. Childhood sexual abuse, injury or illness defined — action for damages may be brought, when.
- 542.276. Who may apply for search warrant — contents of application, affidavit — where filed, hearing — contents of warrant — who may execute, return, when and how made — warrant deemed invalid, when.
- 544.020. Issuance of warrant upon complaint.
- 559.026. Detention condition of probation.
- 570.030. Stealing — penalties.
- 570.200. Definitions.
- 570.210. Library theft, penalty.
- 590.118. Peace officer investigations made available to hiring law enforcement agencies.
- 595.045. Funding — costs for certain violations, amount, distribution of funds, audit — judgments in certain cases, amount — failure to pay, effect, notice — court cost deducted — insufficient funds to pay claims, procedure — interest earned, disposition.
- 595.050. Contracts for services to victims, requirements, limitations.
- 610.100. Definitions — arrest and incident records shall be available to public — closed records, when — record redacted, when — access to incident reports, record redacted, when — action for disclosure of investigative report authorized, costs — application to open incident and arrest reports, violations, civil penalty — identity of victim of sexual offense.
- 630.130. Electroconvulsive therapy, procedure — prohibitions — attorney's fees.
- 632.498. Annual examination of mental condition — annual review by the court — petition for release, hearing, procedures (when director disapproves).
 - 1. Real estate licensee, immunity from liability, when.
- 478.725. Mechanic's liens, where filed (Marion County).
- 491.300. Fees of interpreters.
- 494.431. Police officers, St. Louis City, shall be excused from jury duty.
- 526.020. Granting of injunction by associate circuit judge, when.
 - B. Severability clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 2.030, 2.040, 2.050, 2.060, 3.130, 56.750, 57.260, 105.711, 211.031, 211.141, 452.310, 452.423, 455.010, 455.501, 478.266, 478.725, 479.020, 482.330, 483.550, 488.429, 488.2275, 490.525, 491.300, 491.640, 494.400, 494.425, 494.430, 494.431, 494.445, 494.450, 494.460, 512.020, 512.180, 513.430, 513.440, 526.010, 526.020, 527.290, 535.020, 535.030, 537.046, 542.276, 544.020, 559.026, 570.030, 570.200, 570.210, 595.045, 595.050, 610.100, 630.130, and 632.498, RSMo, are repealed and fifty-eight new sections enacted in lieu thereof, to be known as sections 2.030, 2.040, 2.050, 2.060, 3.130, 56.750, 57.260, 105.711, 211.031, 211.141, 452.025, 452.310, 452.423, 455.010, 455.090, 455.501, 472.075, 476.800, 476.810, 476.820, 478.266, 479.020, 482.330, 483.537, 483.550, 488.429, 488.2275, 490.525, 491.640, 494.400, 494.425, 494.430, 494.432, 494.445, 494.450, 494.460, 512.020, 512.180, 513.430, 513.440, 526.010, 527.290, 535.020, 535.030, 537.046, 542.276, 544.020, 559.026, 570.030, 570.200, 570.210, 590.118, 595.045, 595.050, 610.100, 630.130, 632.498, and 1, to read as follows:

2.030. LEGISLATIVE RESEARCH TO PROVIDE FOR PRINTING AND BINDING OF LAWS. —

The [sixty-fourth general assembly and each general assembly thereafter, whether in regular or extraordinary session, shall by concurrent resolution adopted by both houses, provide for collating, indexing, printing and binding] **joint committee on legislative research shall annually collate, index, print, and bind** all laws and resolutions [of the session] **passed or adopted by the general assembly** and all measures approved by the people since the last publication of the **session** laws [and resolutions in the manner directed by the resolution. The general assembly may by concurrent resolution require that all laws passed by the general

assembly and all resolutions adopted prior to any recess of the general assembly for a period of thirty days or more shall be collated, indexed, bound and distributed as provided by law, and]. Any edition of **the session laws** published pursuant to [the concurrent resolution] **this section** is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

2.040. DUTIES OF LEGISLATIVE RESEARCH IN PRINTING AND BINDING. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of [such laws and resolutions] **the session laws pursuant to section 2.030**, giving the date of the approval or adoption thereof [for printing in accordance with the directions of the general assembly as given by concurrent resolution]. The joint committee on legislative research shall [edit,] headnote, collate, index the laws, resolutions and constitutional amendments, and [shall] compare the proof sheets of the printed copies with the original rolls[, note all errors which have been committed, if any, and cause errata thereof to be annexed to the completed printed copies, and]. The revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

2.050. DISTRIBUTION OF SESSION LAWS. — The complete printed copies of laws, resolutions, constitutional amendments and measures when printed and bound shall be delivered to the revisor of statutes who shall distribute [copies without cost in the same number and to the same] **one copy without cost to each member of the general assembly and one copy each, without cost, to every county circuit clerk, circuit judge, associate circuit judge, prosecuting attorney, and sheriff. One copy each, without cost, shall be delivered to other officers, institutions and agencies who are entitled to copies of the Revised Statutes of Missouri under section 3.130, RSMo, if requested.**

2.060. SALE OF LAWS. — [1.] The revisor of statutes may sell copies of the laws and resolutions, not required by this chapter to be distributed without charge, at actual cost of printing and binding, as determined by the [secretary of state] **joint committee on legislative research**, plus the cost of delivery, and the money received therefor shall be paid to the director of revenue and deposited in the state treasury to the credit of the statutory revision fund.

[2. The revisor of statutes shall also supply the clerk of the circuit court of each county order blanks in a number sufficient to meet the public demand. The blanks may be used by the public to order copies which shall be sold by the revisor of statutes as provided in subsection 1.]

3.130. COMMITTEE TO DETERMINE NUMBER OF COPIES — DISTRIBUTION. — 1. Such number of copies of each volume of each edition of the revised statutes of Missouri and annotations thereto and such number of the supplements or pocket parts thereto as may be necessary to meet the demand as determined by the committee shall be printed[,] **and bound, and also produced in an electronic format**, and delivered to the revisor of statutes, who shall execute and file a receipt therefor with the director of revenue. The revisor of statutes shall distribute the copies, **in either version or combination**, without charge as follows:

(1) To each state department, and each division and bureau thereof, one copy **as requested in writing specifying the version**;

(2) To each member of the general assembly when first elected, [three copies] **one bound version and, if requested, one copy in the electronic version**; and at each general assembly

thereafter, [three copies] **one printed version and one copy in the electronic version** if so requested in writing; each member to receive [three copies] **one printed version and, if requested, one copy in the electronic version** of each supplement and of each new edition of the revised statutes when published;

(3) To each judge of the supreme court, the court of appeals and to each judge of the circuit courts, except municipal judges, one copy **in either version**;

(4) To the probate divisions of the circuit courts of Jackson County, St. Louis County and the city of St. Louis, four additional copies each **in either version or combination**, and to the probate divisions of the circuit courts of those counties where the judge of the probate division sits in more than one city, one additional copy each **in either version**;

(5) To the law library of the supreme court, ten copies **in either version or combination**;

(6) To the law libraries of each district of the court of appeals, six copies each **in either version or combination**;

(7) To the library of the United States Supreme Court, one copy **in either version**;

(8) To the United States district courts and circuit court of appeals for Missouri, two copies each **in either version or combination**;

(9) To the state historical society, two copies **in either version or combination**;

(10) To the libraries of the state university at Columbia, at St. Louis, at Kansas City and at Rolla, [three copies] **one bound version and one electronic version** each;

(11) To the state colleges, Lincoln University, the [junior] **community** colleges, Missouri Western **State** College, **Linn State Technical College**, and Missouri Southern **State** College, [four copies] **one bound version and one electronic version** each;

(12) To the public school library of St. Louis, two copies **in either version or combination**;

(13) To the Library of Congress, one copy **in either version**;

(14) To the Mercantile Library of St. Louis, [two copies] **one bound version and one electronic version**;

(15) To each public library in the state, if requested, one copy **in either version**;

(16) To the law libraries of St. Louis, St. Louis County, Kansas City and St. Joseph, [three copies] **one bound version and one electronic version** each;

(17) To the law schools of the state university, St. Louis University, and Washington University, [three copies] **one bound version and one electronic version** each;

(18) To the circuit clerk of each county of the state for distribution [of one copy] to each county officer, to be by him **or her** delivered to his **or her** successor in office, one copy **in either version as requested in writing**;

(19) To the director of the committee on legislative research, such number of copies **in either version or combination** as may be required by such committee for the performance of its duties;

(20) To any county law library, when requested by the circuit clerk, [two copies] **one bound version and one electronic version**;

(21) To each county library, one copy **of either version**, when requested **in writing**;

(22) To any committee of the senate or house of representatives, as designated and requested by the accounts committee of the respective house.

2. The revisor of statutes shall also provide the librarians of the supreme court library[, of] **and the committee on legislative research**[, of the law schools of the state university] such copies **in either version or combination** as may be necessary, not exceeding fifty-one each, to enable them to exchange the copies for like compilations or revisions of the statute laws of other states and territories.

56.750. OFFICE OF PROSECUTION SERVICES CREATED — PURPOSE — SERVICES. — The "Missouri Office of Prosecution Services" is hereby established as an autonomous entity in the Missouri attorney general's office. It shall be the purpose of the Missouri office of prosecution

services to assist the prosecuting attorneys throughout the state in their efforts against criminal activity in the state. Such assistance may include:

(1) The obtaining, preparing, supplementing, and disseminating of indexes to and digests of the decisions of the supreme court and the court of appeals of Missouri and other courts, and the statutes, and other legal authorities relating to criminal matters, and civil matters concerning the duties of prosecuting attorneys and circuit attorney;

(2) The preparation and distribution of model complaints, informations, indictments, instructions, search warrants, interrogation advices, and other common and appropriate documents employed in the administration of criminal justice;

(3) The preparation and distribution of a basic prosecutor's manual and other educational materials;

(4) The promotion of and assistance in the training of prosecuting attorneys and circuit attorney on a statewide basis;

(5) The provision of legal research assistance to prosecuting attorneys and circuit attorney; [and]

(6) The development, support and maintenance of automated case management and criminal history reporting systems approved by the Prosecutors Coordinators Training Council as the standard utilized by prosecuting attorneys and circuit attorney; and

[(6)] (7) The provision of other assistance to prosecuting attorneys and circuit attorney that is necessary for the successful implementation of sections 56.750 to 56.775 or that hereinafter may be authorized by law.

57.260. DUTIES — PENALTY FOR NEGLECT (MARION COUNTY). — It shall be the duty of the sheriff of Marion County to have at least one deputy[, residing in the city of Hannibal,] who shall attend district number 2 of the circuit court of Marion County at Hannibal; and if said sheriff shall neglect for one month to appoint a deputy [residing in the city of Hannibal,] as required by this section, he **or she** shall be liable to pay as a penalty therefor the sum of five hundred dollars for each month of such failure or neglect, and judgment may be entered for said penalty on a citation to show cause, issued from said court and served on said sheriff in like manner as an order or summons, or may be recovered by an action for that purpose brought in the name of the county of Marion.

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; or

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336,

337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities **or county jails** on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, dental or nursing treatment within the scope of his license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such treatment is restricted to primary care and preventive health services, provided that such treatment shall not include the performance of an abortion, and if such medical, dental or nursing services are provided by the physician, dentist, physician assistant, dental hygienist or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing or dental treatment within the scope of his license or registration to students of a school whether a public, private or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall

not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(4) Staff employed by the juvenile division of any judicial circuit; or

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), and (e) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721, provided in subsection [5] 6 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any physician, dentist, physician assistant, dental hygienist, or nurse for coverage concerning his or her private practice and assets shall not be considered available under subsection [5] 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. However, a physician, nurse, dentist, physician assistant, or dental hygienist may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), and (e) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is in effect.

4. **The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 6 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721 to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under subdivision**

(5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages which occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a physician, dentist, physician assistant, dental hygienist, or nurse described in paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section **or against an attorney in subdivision (5) of subsection 2 of this section** shall only be made for services rendered in accordance with the conditions of such paragraphs.

[5.] 6. Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

[6.] 7. The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

[7.] 8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

211.031. JUVENILE COURT TO HAVE EXCLUSIVE JURISDICTION, WHEN — EXCEPTIONS — HOME SCHOOLING, ATTENDANCE VIOLATIONS, HOW TREATED. — 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190, RSMo, shall have exclusive original jurisdiction in proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; or

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130, RSMo;

(d) The child or person seventeen years of age is a child in need of mental health services and the parent, guardian or custodian is unable to afford or access appropriate mental health treatment or care for the child;

(2) Involving any child who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The child while subject to compulsory school attendance is repeatedly and without justification absent from school; or

(b) The child disobeys the reasonable and lawful directions of his or her parents or other custodian and is beyond their control; or

(c) The child is habitually absent from his or her home without sufficient cause, permission, or justification; or

(d) The behavior or associations of the child are otherwise injurious to his or her welfare or to the welfare of others; or

(e) The child is charged with an offense not classified as criminal, or with an offense applicable only to children; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product;

(3) Involving any child who is alleged to have violated a state law or municipal ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of the circuit in which the child or person resides or may be found or in which the violation is alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child fifteen and one-half years of age who is alleged to have violated a state or municipal traffic ordinance or regulation, the violation of which does not constitute a felony, or any child who is alleged to have violated a state or municipal ordinance or regulation prohibiting possession or use of any tobacco product, **and except that the juvenile court shall have concurrent jurisdiction with the municipal court over any child who is alleged to have violated a municipal curfew ordinance;**

(4) For the adoption of a person;

(5) For the commitment of a child or person seventeen years of age to the guardianship of the department of social services as provided by law.

2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person seventeen years of age who resides in a county of this state shall be made as follows:

(1) Prior to the filing of a petition and upon request of any party or at the discretion of the juvenile officer, the matter in the interest of a child or person seventeen years of age may be transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving court, to the county of the child's residence or the residence of the person seventeen years of age for future action;

(2) Upon the motion of any party or on its own motion prior to final disposition on the pending matter, the court in which a proceeding is commenced may transfer the proceeding of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age, or the county in which the offense pursuant to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

(3) Upon motion of any party or on its own motion, the court in which jurisdiction has been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction of a child or person seventeen years of age to the court located in the county of the child's residence or the residence of the person seventeen years of age for further action with the prior consent of the receiving court;

(4) Upon motion of any party or upon its own motion at any time following a judgment of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause may place the child or person seventeen years of age under the supervision of another juvenile court within or without the state pursuant to section 210.570, RSMo, with the consent of the receiving court;

(5) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or person seventeen years of age, certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the transfer.

3. In any proceeding involving any child or person seventeen years of age taken into custody in a county other than the county of the child's residence or the residence of a person seventeen years of age, the juvenile court of the county of the child's residence or the residence of a person seventeen years of age shall be notified of such taking into custody within seventy-two hours.

211.141. CHILD RETURNED TO PARENT, WHEN, CONDITIONS — DETENTION ON ORDER OF COURT — DETENTION WITHOUT ORDER, WHEN — ASSESSMENT OF CHILD REQUIRED, WHEN — RANDOM SAMPLING OF ASSESSMENTS. — 1. When a child is taken into custody as provided in section 211.131, the person taking the child into custody shall, unless it has been otherwise ordered by the court, return the child to his **or her** parent, guardian or legal custodian on the promise of such person to bring the child to court, if necessary, at a stated time or at such times as the court may direct. The court may also impose other conditions relating to activities of the child. If these additional conditions are not met, the court may order the child detained as provided in section 211.151. If additional conditions are imposed, the child shall be notified that failure to adhere to the conditions may result in the court imposing more restrictive conditions or ordering the detention of the child. If the person taking the child into custody believes it desirable, he may request the parent, guardian or legal custodian to sign a written promise to bring the child into court and acknowledging any additional conditions imposed on the child.

2. If the child is not released as provided in subsection 1 of this section, he **or she** may be conditionally released or detained in any place of detention specified in section 211.151 but only on order of the court specifying the reason for the conditional release or the detention. The parent, guardian or legal custodian of the child shall be notified of the terms of the conditional release or the place of detention as soon as possible.

3. The juvenile officer may conditionally release or detain a child for a period not to exceed twenty-four hours if it is impractical to obtain a written order from the court because of the unreasonableness of the hour or the fact that it is a Sunday or holiday. The conditional release shall be as provided in subsection 1 of this section, and the detention shall be as provided in section 211.151. A written record of such conditional release or detention shall be kept and a report in writing filed with the court. In the event that the judge is absent from his circuit, or is unable to act, the approval of another circuit judge of the same or adjoining circuit must be obtained as a condition or continuing the conditional release or detention of a child for more than twenty-four hours.

4. In any matter referred to the juvenile court pursuant to section 211.031, the juvenile officer shall make [an] **a risk and needs** assessment of the child and, before the disposition of the matter, shall report the results of the assessment to the juvenile court. The assessment shall be written on a standardized form [developed and provided] **approved** by the [division of youth services] **office of state courts administrator**.

5. The division, in cooperation with juvenile officers and juvenile courts, shall at least biennially review a random sample of assessments of children and the disposition of each child's case to recommend assessment and disposition equity throughout the state. Such review shall identify any evidence of racial disparity in certification. Such review shall be conducted in a manner which protects the confidentiality of the cases examined.

452.025. VERIFIED PLEADINGS, FORM AND CONTENT. — 1. All pleadings required to be verified under this chapter may at the time of execution be made by the acknowledgment thereof by the petitioner or respondent made before an officer authorized to administer oaths under the laws of this state, and evidenced by the officer's

certificate, under official seal, attached or annexed to the pleading in form and content substantially as follows:

THE STATE OF

COUNTY OF

(The undersigned), of lawful age, being duly sworn on his/her oath, states that he/she is the petitioner/respondent named above and that the facts stated in the are true according to his/her best knowledge and belief.

.....
Petitioner/Respondent

Subscribed and sworn to before me this day of, 20...

My commission expires:

.....
Notary Public

2. All references in this chapter regarding a "verified" document shall be satisfied by compliance with the requirements of subsection 1 of this section.

452.310. PETITION, CONTENTS — SERVICE, HOW — RULES TO APPLY — DEFENSES ABOLISHED — PARENTING PLANS SUBMITTED, WHEN, CONTENT, EXCEPTION. — 1. In any proceeding commenced pursuant to this chapter, the petition, a motion to modify, a motion for a family access order and a motion for contempt shall be verified. The petition in a proceeding for dissolution of marriage shall allege that the marriage is irretrievably broken and that therefore there remains no reasonable likelihood that the marriage can be preserved. The petition in a proceeding for legal separation shall allege that the marriage is not irretrievably broken and that therefore there remains a reasonable likelihood that the marriage can be preserved.

2. The petition in a proceeding for dissolution of marriage or legal separation shall set forth:

- (1) The residence of each party, including the county, and the length of residence of each party in this state and in the county of residence;
- (2) The date of the marriage and the place at which it is registered;
- (3) The date on which the parties separated;
- (4) The name, date of birth and address of each child, and the parent with whom each child has primarily resided for the sixty days immediately preceding the filing of the petition for dissolution of marriage or legal separation;
- (5) Whether the wife is pregnant;
- (6) The Social Security number of the petitioner, respondent and each child;
- (7) Any arrangements as to the custody and support of the children and the maintenance of each party; and
- (8) The relief sought.

3. Upon the filing of the petition in a proceeding for dissolution of marriage or legal separation, each child shall immediately be subject to the jurisdiction of the court in which the proceeding is commenced, unless a proceeding involving allegations of abuse or neglect of the child is pending in juvenile court. Until permitted by order of the court, neither parent shall remove any child from the jurisdiction of the court or from any parent with whom the child has primarily resided for the sixty days immediately preceding the filing of a petition for dissolution of marriage or legal separation.

4. The mere fact that one parent has actual possession of the child at the time of filing shall not create a preference in favor of such parent in any judicial determination regarding custody of the child.

5. The respondent shall be served in the manner provided by the rules of the supreme court and applicable court rules and, to avoid an interlocutory judgment of default, shall file a verified answer within thirty days of the date of service which shall not only admit or deny the allegations of the petition, but shall also set forth:

- (1) The Social Security number of the petitioner, respondent and each child;

(2) Any arrangements as to the custody and support of the child and the maintenance of each party; and

(3) The relief sought.

6. Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

7. The petitioner and respondent shall submit a proposed parenting plan, either individually or jointly, within thirty days after service of process or the filing of the entry of appearance, whichever event first occurs of a motion to modify or a petition involving custody or visitation issues. The proposed parenting plan shall set forth the arrangements that the party believes to be in the best interest of the minor children and shall include but not be limited to:

(1) A specific written schedule detailing the custody, visitation and residential time for each child with each party including:

(a) Major holidays stating which holidays a party has each year;

(b) School holidays for school-age children;

(c) The child's birthday, Mother's Day and Father's Day;

(d) Weekday and weekend schedules and for school-age children how the winter, spring, summer and other vacations from school will be spent;

(e) The times and places for transfer of the child between the parties in connection with the residential schedule;

(f) A plan for sharing transportation duties associated with the residential schedule;

(g) Appropriate times for telephone access;

(h) Suggested procedures for notifying the other party when a party requests a temporary variation from the residential schedule;

(i) Any suggested restrictions or limitations on access to a party and the reasons such restrictions are requested;

(2) A specific written plan regarding legal custody which details how the decision-making rights and responsibilities will be shared between the parties including the following:

(a) Educational decisions and methods of communicating information from the school to both parties;

(b) Medical, dental and health care decisions including how health care providers will be selected and a method of communicating medical conditions of the child and how emergency care will be handled;

(c) Extracurricular activities, including a method for determining which activities the child will participate in when those activities involve time during which each party is the custodian;

(d) Child care providers, including how such providers will be selected;

(e) Communication procedures including access to telephone numbers as appropriate;

(f) A dispute resolution procedure for those matters on which the parties disagree or in interpreting the parenting plan;

(g) If a party suggests no shared decision-making, a statement of the reasons for such a request;

(3) How the expenses of the child, including child care, educational and extraordinary expenses as defined in the child support guidelines established by the supreme court, will be paid including:

(a) The suggested amount of child support to be paid by each party;

(b) The party who will maintain or provide health insurance for the child and how the medical, dental, vision, psychological and other health care expenses of the child not paid by insurance will be paid by the parties;

(c) The payment of educational expenses, if any;

(d) The payment of extraordinary expenses of the child, if any;

(e) Child care expenses, if any;

(f) Transportation expenses, if any.

8. If the proposed parenting plans of the parties differ and the parties cannot resolve the differences or if any party fails to file a proposed parenting plan, upon motion of either party and an opportunity for the parties to be heard, the court shall enter a temporary order containing a parenting plan setting forth the arrangements specified in subsection 7 of this section which will remain in effect until further order of the court. The temporary order entered by the court shall not create a preference for the court in its adjudication of final custody, child support or visitation.

9. Within one hundred twenty days after August 28, 1998, the Missouri supreme court shall have in effect guidelines for a parenting plan form which may be used by the parties pursuant to this section in any dissolution of marriage, legal separation or modification proceeding involving issues of custody and visitation relating to the child.

10. The filing of a parenting plan for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction is not required. Nothing in this section shall be construed as precluding the filing of a parenting plan upon agreement of the parties or if ordered to do so by the court for any child over the age of eighteen for whom custody, visitation, or support is being established or modified by a court of competent jurisdiction.

452.423. GUARDIAN AD LITEM APPOINTED, WHEN, DUTIES — DISQUALIFICATION, WHEN — FEES — VOLUNTEER ADVOCATES, EXPENSES. — 1. In all proceedings for child custody or for dissolution of marriage or legal separation where custody, visitation, or support of a child is a contested issue, the court may appoint a guardian ad litem. The court shall appoint a guardian ad litem in any proceeding in which child abuse or neglect is alleged. Disqualification of a guardian ad litem shall be ordered in any legal proceeding only pursuant to chapter 210, RSMo, or this chapter, upon the filing of a written application by any party within ten days of appointment, or within ten days of August 28, 1998, if the appointment occurs prior to August 28, 1998. Each party shall be entitled to one disqualification of a guardian ad litem in each proceeding, except a party may be entitled to additional disqualifications of a guardian ad litem for good cause shown.

2. The guardian ad litem shall:

(1) Be the legal representative of the child at the hearing, and may examine, cross-examine, subpoena witnesses and offer testimony;

(2) Prior to the hearing, conduct all necessary interviews with persons having contact with or knowledge of the child in order to ascertain the child's wishes, feelings, attachments and attitudes. If appropriate, the child should be interviewed;

(3) Request the juvenile officer to cause a petition to be filed in the juvenile division of the circuit court if the guardian ad litem believes the child alleged to be abused or neglected is in danger.

3. The appointing judge shall require the guardian ad litem to faithfully discharge such guardian ad litem's duties, and upon failure to do so shall discharge such guardian ad litem and appoint another. The judge in making appointments pursuant to this section shall give preference to persons who served as guardian ad litem for the child in the earlier proceeding, unless there is a reason on the record for not giving such preference.

4. The guardian ad litem shall be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may:

(1) Issue a direct payment order to the parties. If a party fails to comply with the court's direct payment order, the court may find such party to be in contempt of court; or

(2) Award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of guardian fees shall constitute a final judgment in favor of the guardian ad litem. Such final judgment shall be enforceable against the parties in accordance with chapter 513, RSMo.

5. The court may designate volunteer advocates, who may or may not be attorneys licensed to practice law, to assist in the performance of the guardian ad litem duties for the court. The volunteer advocate shall be provided with all reports relevant to the case made to or by any agency or person and shall have access to all records of such agencies or persons relating to the child or such child's family members. Any such designated person shall receive no compensation from public funds. This shall not preclude reimbursement for reasonable expenses.

455.010. DEFINITIONS. — As used in sections 455.010 to 455.085, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Abuse" includes but is not limited to the occurrence of any of the following acts, attempts or threats against a person who may be protected pursuant to sections 455.010 to 455.085:

(a) "Assault", purposely or knowingly placing or attempting to place another in fear of physical harm;

(b) "Battery", purposely or knowingly causing physical harm to another with or without a deadly weapon;

(c) "Coercion", compelling another by force or threat of force to engage in conduct from which the latter has a right to abstain or to abstain from conduct in which the person has a right to engage;

(d) "Harassment", engaging in a purposeful or knowing course of conduct involving more than one incident that alarms or causes distress to another adult and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable adult to suffer substantial emotional distress and must actually cause substantial emotional distress to the petitioner. Such conduct might include, but is not limited to:

a. Following another about in a public place or places;

b. Peering in the window or lingering outside the residence of another; but does not include constitutionally protected activity;

(e) "Sexual assault", causing or attempting to cause another to engage involuntarily in any sexual act by force, threat of force, or duress;

(f) "Unlawful imprisonment", holding, confining, detaining or abducting another person against that person's will;

(2) "Adult", any person eighteen years of age or older or otherwise emancipated;

(3) "Court", the circuit or associate circuit judge or a family court commissioner;

(4) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(5) "Family" or "household member", spouses, former spouses, adults related by blood or marriage, adults who are presently residing together or have resided together in the past, an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, and adults who have a child in common regardless of whether they have been married or have resided together at any time;

(6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) "Order of protection", either an ex parte order of protection or a full order of protection;

(8) "Petitioner", a family or household member or an adult who has been the victim of stalking, who has filed a verified petition pursuant to the provisions of section 455.020;

(9) "Respondent", the family or household member or adult alleged to have committed an act of stalking, against whom a verified petition has been filed;

(10) "Stalking" is when an adult purposely and repeatedly [harasses or follows with the intent of harassing another adult. As used in this subdivision, "harasses" means to engage in a course of conduct directed at a specific adult that serves no legitimate purpose, that would cause

a reasonable adult to suffer substantial emotional distress.] **engages in an unwanted course of conduct that causes alarm to another person when it is reasonable in that person's situation to have been alarmed by the conduct.** As used in this subdivision[.]:

(a) "Course of conduct" means a pattern of conduct composed of [a series of] **repeated** acts over a period of time, however short, [evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct".] **that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or unwanted contact;**

(b) "Repeated" means two or more incidents evidencing a continuity of purpose; and

(c) "Alarm" means to cause fear of danger of physical harm.

455.090. JURISDICTION, DURATION — ENFORCEABILITY OF ORDERS. — 1. The court shall retain jurisdiction over the full order of protection issued under this chapter for its entire duration. The court may schedule compliance review hearings to monitor the respondent's compliance with the order.

2. The terms of the order of protection issued under this chapter are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who willfully violates the order of protection to the same extent as provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

455.501. DEFINITIONS. — As used in sections 455.500 to 455.538, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by an adult household member, or stalking of a child. Discipline including spanking, administered in a reasonable manner shall not be construed to be abuse;

(2) "Adult household member", any person eighteen years of age or older or an emancipated child who resides with the child in the same dwelling unit;

(3) "Child", any person under eighteen years of age;

(4) "Court", the circuit or associate circuit judge or a family court commissioner;

(5) "Ex parte order of protection", an order of protection issued by the court before the respondent has received notice of the petition or an opportunity to be heard on it;

(6) "Full order of protection", an order of protection issued after a hearing on the record where the respondent has received notice of the proceedings and has had an opportunity to be heard;

(7) "Order of protection", either an ex parte order of protection or a full order of protection;

(8) "Petitioner", a person authorized to file a verified petition under the provisions of sections 455.503 and 455.505;

(9) "Respondent", the adult household member, emancipated child or person stalking the child against whom a verified petition has been filed;

(10) "Stalking", **when an adult** purposely and repeatedly [harassing or following with the intent of harassing a child. As used in this subdivision, "harassing" means engaging in a course of conduct directed at a specific child that serves no legitimate purpose, that would cause a reasonable adult to believe the child would suffer substantial emotional distress.] **engages in an unwanted course of conduct with regard to a child that causes another adult to believe that a child would suffer alarm by the conduct.** As used in this subdivision[.]:

(a) "[course] **Course** of conduct" means a pattern of conduct composed of [a series of] **repeated** acts over a period of time, however short, [evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct"] **that serves no legitimate purpose. Such conduct may include, but is not limited to, following the other person or unwanted communication or contact;**

(b) "Repeated" means two or more incidents evidencing a continuity of purpose; and

(c) "Alarm" means to cause fear of danger of physical harm;

(11) "Victim", a child who is alleged to have been abused by an adult household member.

472.075. CLERK AND CERTAIN PERSONNEL OF PROBATE DIVISION TO BE APPOINTED BY JUDGE (ST. LOUIS CITY). — The clerk and other nonjudicial personnel of the probate division of circuit courts of any city not within a county shall be appointed by the judge of the probate division with the consent of the court en banc, unless otherwise provided by local court rule.

476.800. DEFINITIONS. — 1. As used in sections 476.800 to 476.820, the following terms mean:

- (1) "NonEnglish speaking person", any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include persons who are deaf or have a hearing disability;
- (2) "Appointing authority", any court required to provide an interpreter;
- (3) "Court proceeding", any proceeding before a court of record;
- (4) "Qualified interpreter", an impartial and unbiased person who is readily able to render a complete and accurate interpretation or translation of spoken and written English for nonEnglish speaking persons and of nonEnglish oral or written statements into spoken English.

476.810. APPOINTMENT OF INTERPRETERS AND TRANSLATORS, WHEN — WAIVER, WHEN — OATH REQUIRED. — 1. The courts shall appoint qualified interpreters and translators in all legal proceedings in which the nonEnglish speaking person is a party or a witness.

2. Any nonEnglish speaking party, or any party who intends to call a nonEnglish speaking witness shall provide such prior notice to the court of the need for an interpreter or translator as may be required by court rules.

3. The appointing authority shall appoint a qualified interpreter to assist the nonEnglish speaking parent, guardian, or custodian of a juvenile brought before the court.

4. The court may accept a waiver of the right to a qualified interpreter by a nonEnglish speaking person at any point in the court proceeding if the court advises the person of the nature and effect of the waiver and determines that the waiver has been made knowingly, intelligently, and voluntarily. The nonEnglish speaking person may retract his or her waiver and request that a qualified interpreter shall be appointed.

5. An interpreter shall take an oath that he or she will make a true interpretation to the party or witness in a language that the party or witness understands and that he or she will make a true interpretation of the party or witness' answers to questions to counsel, court, or jury, in the English language, with his or her best skill and judgment. The interpreter shall not give explanations or legal advice or express personal opinions.

6. An interpreter or translator cannot be compelled to testify as to the information that would otherwise be protected by attorney-client privilege as between the party and his or her attorney.

476.820. FEE FOR SERVICE, AMOUNT, PAID BY WHOM. — 1. Interpreters and translators in civil, juvenile, and criminal proceedings shall be allowed a reasonable fee approved by the court and necessary travel expenses not to exceed state rates. Interpreters shall not be compensated for travel time.

2. If the person requiring an interpreter or translator during the proceeding is a party to or a witness in any criminal proceeding, such fees and expenses shall be payable by the state from funds appropriated for such purpose.

3. In all cases not included in subsection 2 of this section, such fees and expenses may be taxed as costs by the court to the parties. Prior to any proceeding requiring an

interpreter or translator, the court may order either party, or both, to deposit money with the court in an amount reasonably necessary to cover such fees and expenses. Upon disposition of the proceeding the court may order such costs paid from such deposit and shall return any portion of the deposit not used for such court costs to the parties.

478.266. PROBATE DIVISION, COMMISSIONER AUTHORIZED, CERTAIN COUNTIES, COMPENSATION, COMMISSIONER'S ORDERS, REJECTION OR CONFIRMATION — DEPUTY COMMISSIONER, CERTAIN COUNTIES AND CITIES, APPOINTMENT, TERM — POWERS AND DUTIES. — 1. [Notwithstanding the provisions of section 478.265,] On and after January 2, 1979, each county of the first class having a charter form of government and containing all or part of a city having a population of at least four hundred fifty thousand or more a majority of the circuit **and associate circuit** judges, meeting en banc, may appoint one person, who shall possess the same qualifications as a circuit judge, to act as commissioner of the probate division of the circuit court. The commissioner shall be appointed for a term of four years. The compensation of the commissioner shall be the same as that of a circuit judge, payable in the same manner and from the same source as the compensation of the judge who serves in the probate division of the circuit court. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of the judge **for matters within the jurisdiction of the judge of the probate division.** [The] A judge shall by order of record reject or confirm all orders, judgments and decrees of the commissioner within the time the judge could set aside such orders, judgments or decrees had the same been made by him. If so confirmed, the orders, judgments and decrees shall have the same effect as if made by the judge on the date of their confirmation.

2. The judge of the probate division of the circuit court of each county of the first class having a charter form of government and containing a population of at least four hundred fifty thousand inhabitants and in any city not within a county and, after January 1, 1991, in each county of the first class having a charter form of government and not containing all or part of a city having a population of at least four hundred fifty thousand or more may appoint a person to be known as deputy commissioner of the probate division of the circuit court, who shall possess the same qualifications and take and subscribe a like oath as such **a circuit** judge. The deputy commissioner shall be appointed for a term of four years. The compensation of the deputy commissioner shall be the same as that of an associate circuit judge [of the circuit court in a county of the first class], payable in the same manner and from the same source as the compensation of an associate circuit judge [of the circuit court of a first class county]. Subject to approval or rejection by the judge of the probate division, the commissioner shall have all the powers and duties of the clerk of the probate division and [such] **the** judge; but [the] **a** judge shall by order of record reject or confirm all orders, judgments, and decrees of the deputy commissioner within the time such judge could set aside such orders, judgments, or decrees, had the same been made by him; and if so confirmed such orders, judgments, and decrees shall have the same effect as if made by the judge on the date of such confirmation. **In any city not within a county, any deputy commissioner of the probate court may be temporarily assigned by the presiding judge of the circuit court to serve as a family court commissioner.**

479.020. MUNICIPAL JUDGES, SELECTION, TENURE, JURISDICTION, QUALIFICATIONS, COURSE OF INSTRUCTION. — 1. Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges consistent with the provisions of this chapter who shall have original jurisdiction to hear and determine all violations against the ordinances of the municipality. The method of selection of municipal judges shall be provided by charter or ordinance. Each municipal judge shall be selected for a term of not less than two years as provided by charter or ordinance.

2. Except where prohibited by charter or ordinance, the municipal judge may be a part-time judge and may serve as municipal judge in more than one municipality.

3. No person shall serve as a municipal judge of any municipality with a population of seven thousand five hundred or more or of any municipality in a county of the first class with a charter form of government unless the person is licensed to practice law in this state unless, prior to January 2, 1979, such person has served as municipal judge of that same municipality for at least two years.

4. Notwithstanding any other statute, a municipal judge need not be a resident of the municipality or of the circuit in which the municipal judge serves except where ordinance or charter provides otherwise. Municipal judges shall be residents of Missouri.

5. Judges selected under the provisions of this section shall be municipal judges of the circuit court and shall be divisions of the circuit court of the circuit in which the municipality, or major geographical portion thereof, is located. The judges of these municipal divisions shall be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme court. The presiding judge of the circuit shall have general administrative authority over the judges and court personnel of the municipal divisions within the circuit. [Notwithstanding the foregoing provisions of this subsection, in any city with a population of over four hundred thousand with full-time municipal judges who are subject to a plan of merit selection and retention, such municipal judges and court personnel of the municipal divisions shall not be subject to court management and case docketing in the municipal divisions by the presiding judge or the rules of the circuit court of which the municipal divisions are a part.]

6. No municipal judge shall hold any other office in the municipality which the municipal judge serves as judge. The compensation of any municipal judge and other court personnel shall not be dependent in any way upon the number of cases tried, the number of guilty verdicts reached or the amount of fines imposed or collected.

7. Municipal judges shall be at least twenty-one years of age. No person shall serve as municipal judge after that person has reached that person's seventy-fifth birthday.

8. Within six months after selection for the position, each municipal judge who is not licensed to practice law in this state shall satisfactorily complete the course of instruction for municipal judges prescribed by the supreme court. The state courts administrator shall certify to the supreme court the names of those judges who satisfactorily complete the prescribed course. If a municipal judge fails to complete satisfactorily the prescribed course within six months after the municipal judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and such person shall not thereafter be permitted to serve as a municipal judge, nor shall any compensation thereafter be paid to such person for serving as municipal judge.

482.330. RESTRICTIONS ON FILING OF CLAIMS — STATEMENT REQUIRED OF PLAINTIFF — COUNTERCLAIM NOT PROHIBITED — SUIT MAY BE BROUGHT, WHERE. — 1. No claim may be filed or prosecuted in small claims court by a party who:

(1) Is an assignee of the claim; or

(2) Has filed more than [eight] **twelve** other claims in the Missouri small claims courts during the current calendar year. If the court finds that a party has filed more claims than are permitted by this section, the court shall dismiss the claim without prejudice.

2. At the time of filing an action in small claims court, a plaintiff shall sign a statement that he **or she** is not the assignee of the claim sued on and that he **or she** has not filed more than [eight] **twelve** other claims in the Missouri small claims courts during the current calendar year.

3. Nothing in this section shall prohibit the filing or prosecution of a counterclaim growing out of the same transaction or occurrence.

4. No claim may be filed in a small claims court unless:

(1) At least one defendant is a resident of the county in which the court is located or at least one of the plaintiffs is a resident of the county in which the court is located and at least one defendant may be found in said county; or

(2) The facts giving rise to the cause of action took place within the county in which the court is located.

483.537. PASSPORTS, ACCOUNTING FOR FEES CHARGED, DISBURSED HOW. — The clerk of any state court who, by deputy or otherwise, takes or processes applications for passports or their renewal shall account for the fees charged for such service, and remit eighty percent of the same on the last day of each month to the state, and twenty percent to the county where the application was taken.

483.550. CLERKS TO CHARGE, COLLECT COURT COSTS, WHEN. — 1. Each circuit clerk, or person fulfilling the duties of the circuit clerk pursuant to this chapter, however denominated, shall charge, collect, and be the responsible clerk for every court cost accruing to such clerk's office to which such clerk may be entitled under the law, except that the circuit clerk shall not be accountable or responsible for or under a duty to collect the following court costs:

(1) Court costs in a case pending in the probate division of the circuit court;

(2) Court costs in a case while it pends in a municipal division of the circuit court, in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, RSMo, or to employ judicial personnel pursuant to section 479.060, RSMo;

(3) Court costs in a case which was originally filed and pends before an associate circuit judge; provided, however, that such exception with respect to cases filed and pending before an associate circuit judge shall not apply (a) in the city of St. Louis and (b) when by local circuit court rule it is provided that cases which are to be heard by associate circuit judges shall be centrally filed and final judgments therein maintained in an office which is operated and staffed by the circuit clerk and such clerk's deputies[;]

(4) Fees to which he is entitled for services performed in preparing or completing passport applications, which fees may be retained by the circuit clerk[.]

2. Each chief division clerk for the probate division of the circuit court shall charge and collect every court cost accruing to the probate division of the circuit court to which it may be entitled under the law.

3. In divisions presided over by associate circuit judges for which the circuit clerk is not responsible for collecting court costs as hereinabove provided, the associate circuit judge shall designate by order entered of record a division clerk who shall be responsible for the collection of all court costs with respect to cases in the division; or if there be a centralized filing and docketing system for two or more divisions presided over by an associate circuit judge, then a division clerk or clerks shall be designated in accordance with the provisions of local circuit court rule by an order which shall be entered of record, and if there be no such rule adopted, then a majority of the associate circuit judges being served shall designate a division clerk or clerks who shall be responsible for the collection of all court costs with respect to cases in the divisions served by the centralized filing and docketing system.

4. Notwithstanding the provisions of subsections 1, 2 and 3 of this section, by vote of all judges, circuit and associate circuit, of a circuit court, en banc, the circuit court may adopt a system by local circuit rule whereby the circuit clerks within the circuit shall have administrative control over and be responsible for the charging and collection of all court costs accruing to the court other than court costs in a case while it pends in the municipal divisions of the circuit court, in municipalities electing or required to have violations of municipal ordinances tried before a municipal judge pursuant to section 479.020, RSMo, or to employ judicial personnel pursuant to section 479.060, RSMo. The chief division clerk for the probate divisions of the circuit court may be designated by the local circuit rule to charge and collect every court cost accruing to the probate divisions of the circuit court to which it may be entitled under the law, under the supervision of the circuit clerk.

5. The responsible clerks shall make periodic reports of delinquent court costs which are due at such times and in such form as may be required by the state courts administrator.

6. It shall be the duty of each prosecuting attorney when such be referred to such prosecuting attorney by the responsible clerk to reasonably attempt to collect such delinquent court costs. In the case of delinquent court costs which are payable to the state, it shall be the duty of each prosecuting attorney, and the attorney general when such be referred to the attorney general by the state courts administrator to reasonably attempt to collect such delinquent court costs.

488.429. FUND PAID TO TREASURER DESIGNATED BY CIRCUIT JUDGE — USE OF FUND FOR LAW LIBRARY, AND COURTROOM RENOVATION AND TECHNOLOGY ENHANCEMENT IN CERTAIN COUNTIES. — 1. Moneys collected pursuant to section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the library to the support of which said funds are applied.

2. In any county of the first classification without a charter form of government and with a population of at least two hundred thousand, such fund may also be applied and expended for that county's or circuit's family services and justice fund.

3. In any county [of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants, in any county of the third classification without a township form of government and with more than forty thousand four hundred but less than forty thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand four hundred but less than thirteen thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but less than thirteen thousand six hundred inhabitants, in any county of the third classification without a township form of government and with more than twenty-three thousand two hundred fifty but less than twenty-three thousand three hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but less than eleven thousand eight hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than thirty-seven thousand two hundred but less than thirty-seven thousand three hundred inhabitants, in any county of the fourth classification with more than fifty-five thousand six hundred but less than fifty-five thousand seven hundred inhabitants, or in any county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants], **other than a county on the nonpartisan court plan**, such fund may also be applied and expended for courtroom renovation and technology enhancement [in those counties], **or for debt service on county bonds for such renovation or enhancement projects.**

488.2275. ADDITIONAL SURCHARGE AUTHORIZED FOR CRIMINAL CASES (GREENE, CASS, AND JEFFERSON COUNTIES), VIOLATIONS OF COUNTY AND CITY ORDINANCES, EXCEPTIONS — USE OF REVENUE. — 1. In addition to all other court costs prescribed by law, a surcharge of ten dollars shall be assessed as costs in each court proceeding filed in any court in the state located within a county of the first classification with a population of at least two hundred thousand inhabitants which does not adjoin any other county of the first classification,

and in any county of the first classification having a population of at least eighty-two thousand inhabitants, but less than eighty-two thousand one hundred inhabitants, and in any county of the first classification with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants, in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including infractions, except that no such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law in any court when the proceeding or defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. For violations of the general criminal laws of the state or county ordinances, no such surcharge shall be collected unless it is authorized by the county government where the violation occurred. For violations of municipal ordinances, no such surcharge shall be collected unless it is authorized by the municipal government where the violation occurred. Such surcharges shall be collected and disbursed as provided by sections 488.010 to 488.020 and shall be payable to the treasurer of the county where the violation occurred.

2. Each county shall use all funds received under this section only to pay for the costs associated with the operation of the county judicial facility including, but not limited to, utilities, maintenance and building security. The county shall maintain records identifying such operating costs, and any moneys not needed for the operating costs of the county judicial facility shall be transmitted quarterly to the general revenue fund of the county.

490.525. AFFIDAVIT STATING AMOUNT CHARGED WAS REASONABLE AND NECESSARY, EFFECT — RESTRICTIONS — SERVICE — COUNTERAFFIDAVIT, REQUIREMENTS — NOTICE.

— 1. This section shall apply to civil actions filed in any court of this state.

2. Unless a controverting affidavit is filed as provided by this section, an affidavit that the amount a person charged for a service was reasonable at the time and place that the service was provided and that the service was necessary is sufficient evidence to support a finding of fact by judge or jury that the amount charged was reasonable or that the service was necessary.

3. The affidavit shall:

- (1) Be taken before an officer with authority to administer oaths;
- (2) Be made by the person **or that person's designee** who provided the service;
- (3) Include an itemized statement of the service and charge.

4. The party offering the affidavit in evidence or the party's attorney shall file the affidavit with the clerk of the court and serve a copy of the affidavit on each other party to the case at least thirty days before the day on which evidence is first presented at the trial of the case.

5. A party intending to controvert a claim reflected by the affidavit shall file a counteraffidavit with the clerk of the court and serve a copy of the counteraffidavit on each other party or the party's attorney of record:

- (1) Not later than:
 - (a) Thirty days after the day he receives a copy of the affidavit; and
 - (b) At least fourteen days before the day on which evidence is first presented at the trial of the case; or
- (2) With leave of the court, at any time before the commencement of evidence at trial.

6. The counteraffidavit shall give reasonable notice of the basis on which the party filing it intends at trial to controvert the claim reflected by the initial affidavit and must be taken before a person authorized to administer oaths. The counteraffidavit shall be made by a person who is qualified, by knowledge, skill, experience, training, education or other expertise, to testify in contravention of all or part of any of the matters contained in the initial affidavit.

491.640. PROSECUTORS COORDINATORS TRAINING COUNCIL MAY PROVIDE FOR SECURITY OF WITNESSES AND FAMILIES, WHEN — POWERS — REQUEST BY LAW ENFORCEMENT AGENCIES, CONTENT — DELEGATION OF PROGRAM ADMINISTRATION, TO WHOM. — 1. The Prosecutors Coordinators Training Council, as established in Section

56.760, RSMo. [director of the department of public safety] may, upon the **council's** [director's] own initiative or at the request of the attorney general, any prosecuting attorney or law enforcement agency, provide for the security of witnesses, potential witnesses and their immediate families in criminal proceedings instituted or investigations pending against a person alleged to have engaged in a violation of state law. Providing for witnesses may include provision of housing facilities and for the health, safety and welfare of such witnesses and their immediate families, if testimony by such a witness might subject the witness or a member of his immediate family to danger of bodily injury, and may continue so long as such danger exists.

2. The **Prosecutors Coordinators Training Council** [director of the department of public safety] may authorize the purchase, rental or modification of protected housing facilities for the purpose of this section. The **council** [director] may contract with any department of federal or state government to obtain or to provide the facilities or services to carry out this section.

3. The **Prosecutors Coordinators Training Council** [director of the department of public safety] may authorize expenditures to provide for the health, safety and welfare of witnesses and victims, and the families of such witnesses and victims, whenever, in his judgment, testimony from, or a willingness to testify by, such a witness or victim would place the life of such person, or a member of his family or household, in jeopardy. Applications by requesting law enforcement agencies under this section must include but not necessarily be limited to:

- (1) Statement of conditions which qualify persons for protection;
- (2) Precise methods the originating agency will use to provide protection, including relocation of persons and reciprocal agreements with other law enforcement agencies;
- (3) Statement of projected costs over a specified period of time.

4. The **Prosecutors Coordinators Training Council** may delegate administration of the program set forth in this section to the Executive Director of the Missouri Office of Prosecution Services. Subject to appropriations from the general assembly for the purposes provided for in this section, funds may be appropriated from the Missouri Office of Prosecution Services Fund set forth in Section 56.765.2, general revenue or federal funds. Under no circumstance shall the expenditures from general revenue for the purposes provided for in this section exceed the amount of ninety-five thousand dollars, if and when appropriated by the general assembly for such purposes.

494.400. QUALIFICATIONS OF JURORS, SELECTION, EXCLUSIONS PROHIBITED. — All persons qualified for grand or petit jury service shall be citizens of the state and shall be selected at random from a fair cross section of the citizens of the county or of a city not within a county for which the jury may be impaneled, and all such citizens shall have the opportunity to be considered for jury service and an obligation to serve as jurors when summoned for that purpose, **unless excused.** A citizen of the county or of a city not within a county for which the jury may be impaneled shall not be excluded from selection for possible grand or petit jury service on account of race, color, religion, sex, national origin, or economic status.

494.425. PERSONS INELIGIBLE FOR JURY SERVICE. — The following persons shall be disqualified from serving as a petit or grand juror:

- (1) Any person who is less than twenty-one years of age;
 - (2) Any person not a citizen of the United States;
 - (3) Any person not a resident of the county or city not within a county served by the court issuing the summons;
 - (4) Any person who has been convicted of a felony, unless such person has been restored to his civil rights;
 - (5) Any person unable to read, speak and understand the English language, **unless such person's inability is due to a vision or hearing impairment which can be adequately compensated for through the use of auxiliary aids or services;**
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(6) Any person on active duty in the armed forces of the United States or any member of the organized militia on active duty under order of the governor;

(7) [Any licensed attorney at law;

(8)] Any judge of a court of record;

[(9)] (8) Any person who, in the judgment of the court [or the board of jury commissioners], is incapable of performing the duties of a juror because of mental or physical illness or infirmity. **The juror or the juror's personal representative, may provide the court with documentation from a physician licensed to practice medicine verifying that a mental or physical condition renders the person unfit for jury service for a period of up to twenty-four months.**

494.430. PERSONS ENTITLED TO BE EXCUSED FROM JURY SERVICE — DETERMINATIONS MADE BY JUDGE — UNDUE OR EXTREME PHYSICAL OR FINANCIAL HARDSHIP DEFINED — DOCUMENTATION REQUIRED, WHEN. — 1. Upon timely application to the court, the following persons shall be excused from service as a petit or grand juror:

(1) [Any person actually performing the duties of a clergyman;

(2)] Any person who has served on a state or federal petit or grand jury within the preceding [year] **two years**;

[(3)] (2) Any person whose absence from his **or her** regular place of employment would, in the judgment of the court, tend materially and adversely to affect the public safety, health, welfare or interest;

[(4)] (3) Any person upon whom service as a juror would in the judgment of the court impose an **undue or extreme physical or financial** hardship;

[(5)] (4) Any person licensed to engage in and actively engaged in the practice of medicine, osteopathy, chiropractic, dentistry or pharmacy, **but only if such person provides a written statement to the court certifying that he or she is actually providing health care services to patients, and that the person's service as a juror would be detrimental to the health of the person's patients.**

2. A judge of the court for which the individual was called to jury service shall make undue or extreme physical or financial hardship determinations. The authority to make these determinations is delegable only to court officials or personnel who are authorized by the laws of this state to function as members of the judiciary.

3. A person asking to be excused based on a finding of undue or extreme physical or financial hardship must take all actions necessary to have obtained a ruling on that request by no later than the date on which the individual is scheduled to appear for jury duty.

4. For purposes of sections 494.400 to 494.460 undue or extreme physical or financial hardship is limited to circumstances in which an individual would:

(1) Be required to abandon a person under his or her personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury; or

(2) Incur costs that would have a substantial adverse impact on the payment of the individual's necessary daily living expenses or on those for whom he or she provides the principal means of support; or

(3) Suffer physical hardship that would result in illness or disease.

5. Undue or extreme physical or financial hardship does not exist solely based on the fact that a prospective juror will be required to be absent from his or her place of employment.

6. A person asking a judge to grant an excuse based on undue or extreme physical or financial hardship shall be required to provide the judge with documentation, such as but not limited to, federal and state income tax returns, medical statements from licensed physicians, proof of dependency or guardianship, and similar documents, which the judge

finds to clearly support the request to be excused. Failure to provide satisfactory documentation shall result in a denial of the request to be excused. Such documents shall be filed under seal.

7. After two years, a person excused from jury service shall become eligible once again for qualification as a juror unless the person was excused from service permanently. A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature.

494.432. POSTPONEMENT OF JURY DUTY, WHEN. — 1. Individuals scheduled to appear for jury service have the right to postpone the date of their initial appearance for jury service one time only for reasons other than undue influence or extreme physical or financial hardship. When requested, postponements shall be granted, provided that:

- (1) The prospective juror has not previously been granted a postponement;
- (2) The prospective juror appears in person or contacts the board of jury commissioners by telephone, electronic mail, or in writing to request a postponement; and
- (3) Prior to the grant of a postponement with the concurrence of the board of jury commissioners, the prospective juror fixes a date certain on which he or she will appear for jury service that is not more than six months after the date on which the prospective juror originally was called to serve and on which date the court will be in session. A prospective juror who is a full-time student of any accredited institution may fix a date certain on which he or she will appear for jury service that is not more than twelve months after the date on which the prospective juror originally was called to serve and on which the court will be in session.

2. A subsequent request to postpone jury service may be approved by a judicial officer only in the event of an extreme emergency, such as a death in the family, sudden grave illness, or a natural disaster or national emergency in which the prospective juror is personally involved, that could not have been anticipated at the time the initial postponement was granted. Prior to the grant of a second postponement, the prospective juror must fix a date certain on which the individual will appear for jury service within six months of the postponement on a date when the court will be in session.

494.445. PETIT JURORS, MAXIMUM NUMBER OF DAYS REQUIRED TO SERVE, EXCEPTION. — 1. Except as otherwise provided in subsections 2 and 3, no petit juror shall be required to attend court for prospective jury service more than twenty days in any one-year period except as is necessary to complete service in a particular case.

2. Subsequent to January 1, 2005, in jurisdictions on the nonpartisan court plan, no petit juror shall be required to attend court for prospective jury service for more than two days pursuant to a jury summons unless selected to a panel of prospective jurors for jury service pursuant to subsection 2 of section 494.420, or selected to serve as a petit juror in one particular case.

[2.] 3. In jurisdictions on the nonpartisan court plan, no petit juror shall be required to serve as a juror for more than twenty days in any one-year period except as is necessary to complete service in a particular case.

494.450. JUROR NONATTENDANCE, CRIMINAL CONTEMPT, FINE. — A person who is summoned for jury service and who willfully fails to appear and who has failed to obtain a postponement in compliance with section 494.432 or as an excuse pursuant to section 494.430, or to respond to the juror qualification form [is guilty of criminal] shall be in civil contempt of court, enforceable by an order directing him or her to show cause for his or her failure to comply with the summons and the juror qualification form[, and upon conviction may be fined not more than two hundred and fifty dollars]. Following an order to show cause hearing, the court may impose a fine not to exceed five hundred dollars. The prospective

juror may be excused from paying sanctions for good cause shown or in the interests of justice. In addition to, or in lieu of, the fine, the court may order that the prospective juror complete a period of community service for a period of no less than if the prospective juror would have completed jury service, and require that he or she provide proof of completion of such community service to the court.

494.460. EMPLOYERS PROHIBITED FROM DISCIPLINING EMPLOYEES BECAUSE OF JURY DUTY, ACTION FOR DAMAGES, ATTORNEY FEES — EMPLOYEES NOT REQUIRED TO USE LEAVE FOR JURY DUTY — AUTOMATIC POSTPONEMENT OF JURY DUTY, WHEN. — 1. An employer shall not terminate, discipline, threaten or take adverse actions against an employee on account of that employee's receipt of or response to a jury summons.

2. An employee discharged in violation of this section may bring civil action against his **or her** employer within ninety days of discharge for recovery of lost wages and other damages caused by the violation and for an order directing reinstatement of the employee. If [he] **the employee** prevails, the employee shall be entitled to receive a reasonable attorney's fee.

3. **An employee may not be required or requested to use annual, vacation, personal, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent actually serving on a jury. Nothing in this provision shall be construed to require an employer to provide annual, vacation, personal, or sick leave to employees under the provisions of this statute who otherwise are not entitled to such benefits under company policies.**

4. **A court shall automatically postpone and reschedule the service of a summoned juror of an employer with five or fewer full-time employees, or their equivalent, if another employee of that employer has been previously summoned to appear during the same period. Such postponement will not effect an individual's right to one automatic postponement pursuant to section 494.432.**

512.020. WHO MAY APPEAL. — Any party to a suit aggrieved by any judgment of any trial court in any civil cause from which an appeal is not prohibited by the constitution, nor clearly limited in special statutory proceedings, may take his **or her** appeal to a court having appellate jurisdiction from any:

- (1) Order granting a new trial[, or];
- (2) Order refusing to revoke, modify, or change an interlocutory order appointing a receiver or receivers, or dissolving an injunction[, or from any];
- (3) **Order granting or denying class action certification provided that:**
 - (a) **The court of appeals, in its discretion, permits such an appeal; and**
 - (b) **An appeal of such an order shall not stay proceedings in the court unless the judge or the court of appeals so orders;**
- (4) Interlocutory judgments in actions of partition which determine the rights of the parties[, or from any]; **or**
- (5) Final judgment in the case or from any special order after final judgment in the cause; but a failure to appeal from any action or decision of the court before final judgment shall not prejudice the right of the party so failing to have the action of the trial court reviewed on an appeal taken from the final judgment in the case.

512.180. APPEALS FROM CASES TRIED BEFORE ASSOCIATE CIRCUIT JUDGE. — 1. Any person aggrieved by a judgment in a civil case tried without a jury before an associate circuit judge, other than an associate circuit judge sitting in the probate division or who has been assigned to hear the case on the record under procedures applicable before circuit judges, shall have the right of a trial de novo in all cases [where the pleading claims damages not to exceed three thousand dollars] **tried before municipal court or under the provisions of chapters 482, 534, and 535, RSMo.**

2. In all other contested civil cases tried with or without a jury before an associate circuit judge or on assignment under such procedures applicable before circuit judges or in any misdemeanor case or county ordinance violation case a record shall be kept, and any person aggrieved by a judgment rendered in any such case may have an appeal upon that record to the appropriate appellate court. At the discretion of the judge, but in compliance with the rules of the supreme court, the record may be a stenographic record or one made by the utilization of electronic, magnetic, or mechanical sound or video recording devices.

513.430. PROPERTY EXEMPT FROM ATTACHMENT — BENEFITS FROM CERTAIN EMPLOYEE PLANS, EXCEPTION — BANKRUPTCY PROCEEDING, FRAUDULENT TRANSFERS, EXCEPTION — CONSTRUCTION OF SECTION. — 1. The following property shall be exempt from attachment and execution to the extent of any person's interest therein:

(1) Household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for personal, family or household use of such person or a dependent of such person, not to exceed [one] **three** thousand dollars in value in the aggregate;

(2) **A wedding ring not to exceed one thousand five hundred dollars in value and other** jewelry held primarily for the personal, family or household use of such person or a dependent of such person, not to exceed five hundred dollars in value in the aggregate;

(3) Any other property of any kind, not to exceed in value [four] **six** hundred dollars in the aggregate;

(4) Any implements[,] **or** professional books or tools of the trade of such person or the trade of a dependent of such person not to exceed [two] **three** thousand dollars in value in the aggregate;

(5) Any motor vehicle **in the aggregate**, not to exceed [one] **three** thousand dollars in value;

(6) Any mobile home used as the principal residence **but not on or attached to real property in which the debtor has a fee interest**, not to exceed [one] **five** thousand dollars in value;

(7) Any one or more unmatured life insurance contracts owned by such person, other than a credit life insurance contract;

(8) The amount of any accrued dividend or interest under, or loan value of, any one or more unmatured life insurance contracts owned by such person under which the insured is such person or an individual of whom such person is a dependent; provided, however, that if proceedings under Title 11 of the United States Code are commenced by or against such person, the amount exempt in such proceedings shall not exceed in value one hundred fifty thousand dollars in the aggregate less any amount of property of such person transferred by the life insurance company or fraternal benefit society to itself in good faith if such transfer is to pay a premium or to carry out a nonforfeiture insurance option and is required to be so transferred automatically under a life insurance contract with such company or society that was entered into before commencement of such proceedings. No amount of any accrued dividend or interest under, or loan value of, any such life insurance contracts shall be exempt from any claim for child support. Notwithstanding anything to the contrary, no such amount shall be exempt in such proceedings under any such insurance contract which was purchased by such person within one year prior to the commencement of such proceedings;

(9) Professionally prescribed health aids for such person or a dependent of such person;

(10) Such person's right to receive:

(a) A Social Security benefit, unemployment compensation or a local public assistance benefit;

(b) A veteran's benefit;

(c) A disability, illness or unemployment benefit;

(d) Alimony, support or separate maintenance, not to exceed [five] **seven** hundred **fifty** dollars a month;

(e) Any payment under a stock bonus plan, pension plan, disability or death benefit plan, profit-sharing plan, nonpublic retirement plan or any plan described, defined, or established pursuant to section 456.072, RSMo, the person's right to a participant account in any deferred compensation program offered by the state of Missouri or any of its political subdivisions, or annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of such person and any dependent of such person unless:

a. Such plan or contract was established by or under the auspices of an insider that employed such person at the time such person's rights under such plan or contract arose;

b. Such payment is on account of age or length of service; and

c. Such plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, (26 U.S.C. 401(a), 403(a), 403(b), 408, 408A or 409); except that any such payment to any person shall be subject to attachment or execution pursuant to a qualified domestic relations order, as defined by Section 414(p) of the Internal Revenue Code of 1986, as amended, issued by a court in any proceeding for dissolution of marriage or legal separation or a proceeding for disposition of property following dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of marital property at the time of the original judgment of dissolution;

(f) Any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan or profit-sharing plan that is qualified under Section 401(a), 403(a), 403(b), 408, 408A or 409 of the Internal Revenue Code of 1986, as amended, except as provided in this paragraph. Any plan or arrangement described in this paragraph shall not be exempt from the claim of an alternate payee under a qualified domestic relations order; however, the interest of any and all alternate payees under a qualified domestic relations order shall be exempt from any and all claims of any creditor, other than the state of Missouri through its division of family services. As used in this paragraph, the terms "alternate payee" and "qualified domestic relations order" have the meaning given to them in Section 414(p) of the Internal Revenue Code of 1986, as amended. If proceedings under Title 11 of the United States Code are commenced by or against such person, no amount of funds shall be exempt in such proceedings under any such plan, contract, or trust which is fraudulent as defined in section 456.630, RSMo, and for the period such person participated within three years prior to the commencement of such proceedings. For the purposes of this section, when the fraudulently conveyed funds are recovered and after, such funds shall be deducted and then treated as though the funds had never been contributed to the plan, contract, or trust;

(11) The debtor's right to receive, or property that is traceable to, a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

2. Nothing in this section shall be interpreted to exempt from attachment or execution for a valid judicial or administrative order for the payment of child support or maintenance any money or assets, payable to a participant or beneficiary from, or any interest of any participant or beneficiary in, a retirement plan which is qualified pursuant to Section 408A of the Internal Revenue Code of 1986, as amended.

513.440. OTHER PROPERTY EXEMPT — PROVISIONS — EXCEPTIONS. — Each head of a family may select and hold, exempt from execution, any other property, real, personal or mixed, or debts and wages, not exceeding in value the amount of [eight hundred fifty dollars plus two hundred] **one thousand two hundred fifty dollars plus three hundred** fifty dollars for each of such person's unmarried dependent children under the age of eighteen years **or dependent as defined by the Internal Revenue Code of 1986, as amended, determined to**

be disabled by the Social Security Administration, except ten percent of any debt, income, salary or wages due such head of a family.

526.010. INJUNCTIONS GRANTED BY CERTAIN COURTS. — Injunctions may be granted by a circuit judge, [and if specially assigned or transferred to hear the cause or if there is no circuit judge present within the county, by] **or** an associate circuit judge.

527.290. NOTICE OF CHANGE TO BE GIVEN, WHEN AND HOW — NOT REQUIRED, WHEN. — **1.** Public notice of such a change of name shall be given at least three times in a newspaper published in the county where such person is residing, within twenty days after the order of court is made, and if no newspaper is published in his or any adjacent county, then such notice shall be given in a newspaper published in the city of St. Louis, or at the seat of government.

2. Public notice of such name change through publication as required in subsection 1 of this section shall not be required if the petitioner is:

(1) The victim of a crime, the underlying factual basis of which is found by the court on the record to include an act of domestic violence, as defined in section 455.200, RSMo;

(2) The victim of child abuse, as defined in section 210.110, RSMo; or

(3) The victim of abuse by a family or household member, as defined in section 455.010, RSMo.

535.020. PROCEDURE TO RECOVER POSSESSION — FILING OF STATEMENT — ISSUANCE OF SUMMONS — PROCEDURE. — Whenever any rent has become due and payable, and payment has been demanded by the landlord or the landlord's agent from the lessee or person occupying the premises, and payment thereof has not been made, the landlord or agent may file a statement, verified by affidavit, with any associate circuit judge in the county in which the property is situated, setting forth the terms on which such property was rented, and the amount of rent actually due to such landlord; that the rent has been demanded from the tenant, lessee or person occupying the premises, and that payment has not been made, and substantially describing the property rented or leased. **Giving the notice provided in section 441.060, RSMo, is not required prior to filing a statement or obtaining the relief provided in this chapter.** In such case, the clerk of the court shall immediately issue a summons directed to such tenant or lessee and to all persons occupying the premises, by name, requiring them to appear before the judge upon a day to be therein named, and show cause why possession of the property should not be restored to the plaintiff. The landlord or agent may, in such an action for unpaid rent, join a claim for any other unpaid sums, other than property damages, regardless of how denominated or defined in the lease, to be paid by or on behalf of a tenant to a landlord for any purpose set forth in the lease; provided that such other sums shall not be considered rent for purposes of this chapter, and judgment for the landlord for recovery of such other sums shall not by itself entitle the landlord to an order for recovery of possession of the premises. The provisions of this section providing for the filing of a statement before an associate circuit judge shall not preclude adoption of a local circuit court rule providing for the centralized filing of such cases, nor the assignment of such cases to particular circuit or associate circuit judges pursuant to local circuit court rule or action by the presiding judge of the circuit. The case shall be heard and determined under the practice and procedure provided in the Missouri rules of civil procedure, except where otherwise provided by this chapter.

535.030. SERVICE OF SUMMONS — COURT DATE INCLUDED IN SUMMONS. — **1.** Such summons shall be served as in other civil cases at least four days before the court date in the summons. The summons shall include a court date which shall not be more than twenty-one business days from the date the summons is issued unless at the time of filing the affidavit the plaintiff or plaintiff's attorney consents in writing to a later date.

2. In addition to attempted personal service, the plaintiff may request, and thereupon the clerk of the court shall make an order directing that the officer, or other person empowered to execute the summons, shall also serve the same by securely affixing a copy of such summons and the complaint in a conspicuous place on the dwelling of the premises in question at least ten days before the court date in such summons, and by also mailing a copy of the summons and complaint to the defendant at the defendant's last known address by ordinary mail [and by certified mail, return receipt requested, deliver to addressee only,] at least ten days before the court date. If the officer, or other person empowered to execute the summons, shall return that the defendant is not found, or that the defendant has absconded or vacated his **or her** usual place of abode in this state, and if proof be made by affidavit of the posting and of the mailing of a copy of the summons and complaint, the judge shall at the request of the plaintiff proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure set forth in this section.

3. If the plaintiff does not request service of the original summons by posting and mailing as provided in subsection 2 of this section, and if the officer, or other person empowered to execute the summons, makes return that the defendant is not found, or that the defendant has absconded or vacated the defendant's usual place of abode in this state, the plaintiff may request the issuance of an alias summons and service of the same by posting and mailing in the time and manner provided in subsection 2 of this section. In addition, the plaintiff or an agent of the plaintiff who is at least eighteen years of age may serve the summons by posting and mailing a copy of the summons in the time and manner provided in subsection 2 of this section. Upon proof by affidavit of the posting and of the mailing of a copy of the summons or alias summons and the complaint, the judge shall proceed to hear the case as if there had been personal service, and judgment shall be rendered and proceedings had as in other cases, except that no money judgment shall be granted the plaintiff where the defendant is in default and service is by the posting and mailing procedure provided in subsection 2 of this section.

4. On the date judgment is rendered as provided in this section where the defendant is in default, the clerk of the court shall mail to the defendant at the defendant's last known address by certified mail, with a request for return receipt and with directions to deliver to the addressee only, a notice informing the defendant of the judgment and the date it was entered, and stating that the defendant has ten days from the date of the judgment to file a motion to set aside the judgment or to file an application for a trial de novo in the circuit court, as the case may be, and that unless the judgment is set aside or an application for a trial de novo is filed within ten days, the judgment will become final and the defendant will be subject to eviction from the premises without further notice.

537.046. CHILDHOOD SEXUAL ABUSE, INJURY OR ILLNESS DEFINED — ACTION FOR DAMAGES MAY BE BROUGHT, WHEN. — 1. As used in this section, the following terms mean:

(1) "Childhood sexual abuse", any act committed by the defendant against the plaintiff which act occurred when the plaintiff was under the age of eighteen years and which act would have been a violation of section 566.030, 566.040, 566.050, 566.060, 566.070, 566.080, 566.090, 566.100, 566.110, or 566.120, RSMo, or section 568.020, RSMo;

(2) "Injury" or "illness", either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

2. [In any civil action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within five years of the date the plaintiff attains the age of eighteen or within three years of the date the plaintiff discovers or reasonably should have discovered that the injury or illness was caused by child sexual abuse, whichever later occurs.] **Any action to recover damages from injury or illness caused by childhood sexual abuse in an action brought pursuant to this section, shall be commenced within ten**

years of the plaintiff attaining the age of twenty-one or within three years of the date the plaintiff discovers, or reasonably should have discovered, that the injury or illness was caused by childhood sexual abuse, whichever later occurs.

3. This section shall apply to any action commenced on or after August 28, 1990, including any action which would have been barred by the application of the statute of limitation applicable prior to that date.

542.276. WHO MAY APPLY FOR SEARCH WARRANT — CONTENTS OF APPLICATION, AFFIDAVIT — WHERE FILED, HEARING — CONTENTS OF WARRANT — WHO MAY EXECUTE, RETURN, WHEN AND HOW MADE — WARRANT DEEMED INVALID, WHEN. — 1. Any peace officer or prosecuting attorney may make application under section 542.271 for the issuance of a search warrant.

2. The application shall:

- (1) Be in writing;
- (2) State the time and date of the making of the application;
- (3) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
- (4) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he **or she** is to search;
- (5) State facts sufficient to show probable cause for the issuance of a search warrant;
- (6) Be verified by the oath or affirmation of the applicant;
- (7) Be filed in the proper court;
- (8) Be signed by the prosecuting attorney of the county where the search is to take place, or his **or her** designated assistant.

3. The application may be supplemented by a written affidavit verified by oath or affirmation. Such affidavit shall be considered in determining whether there is probable cause for the issuance of a search warrant and in filling out any deficiencies in the description of the person, place, or thing to be searched or of the property, article, material, substance, or person to be seized. Oral testimony shall not be considered. **The application may be submitted by facsimile or other electronic means.**

4. The judge shall [hold a nonadversary hearing to] determine whether sufficient facts have been stated to justify the issuance of a search warrant. If it appears from the application and any supporting affidavit that there is probable cause to believe that property, article, material, substance, or person subject to seizure is on the person or at the place or in the thing described, a search warrant shall immediately be issued. The warrant shall be issued in the form of an original and two copies.

5. The application and any supporting affidavit and a copy of the warrant shall be retained in the records of the court from which the warrant was issued.

6. The search warrant shall:

- (1) Be in writing and in the name of the state of Missouri;
 - (2) Be directed to any peace officer in the state;
 - (3) State the time and date the warrant is issued;
 - (4) Identify the property, article, material, substance or person which is to be searched for and seized, in sufficient detail and particularity that the officer executing the warrant can readily ascertain it;
 - (5) Identify the person, place, or thing which is to be searched, in sufficient detail and particularity that the officer executing the warrant can readily ascertain whom or what he **or she** is to search;
 - (6) Command that the described person, place, or thing be searched and that any of the described property, article, material, substance, or person found thereon or therein be seized [or]
-

and photographed or copied [and be returned, or the photograph or copy be brought, within ten days after filing of the application, to the judge who issued the warrant, to be dealt with according to law] **within ten days after filing of the application, all photographs and copies or photographs or copies of the items shall be filed with the circuit clerk;**

(7) Be signed by the judge, with his **or her** title of office indicated.

7. A search warrant issued under this section may be executed only by a peace officer. The warrant shall be executed by conducting the search and seizure commanded. **The search warrant issued under this section may be issued by facsimile or other electronic means.**

8. A search warrant shall be executed as soon as practicable and shall expire if it is not executed and the return made within ten days after the date of the making of the application.

9. After execution of the search warrant, the warrant with a return thereon, signed by the officer making the search, shall be delivered to the judge who issued the warrant. The return shall show the date and manner of execution, what was seized, and the name of the possessor and of the owner, when he **or she** is not the same person, if known. The return shall be accompanied by a copy of the itemized receipt required by subsection 6 of section 542.291. The judge or clerk shall, upon request, deliver a copy of such receipt to the person from whose possession the property was taken and to the applicant for the warrant.

10. A search warrant shall be deemed invalid:

- (1) If it was not issued by a judge; or
- (2) If it was issued without a written application having been filed and verified; or
- (3) If it was issued without probable cause; or
- (4) If it was not issued in the proper county; or
- (5) If it does not describe the person, place, or thing to be searched or the property, article, material, substance, or person to be seized with sufficient certainty; or
- (6) If it is not signed by the judge who issued it; or
- (7) If it was not executed within the time prescribed by subsection 8 of this section.

544.020. ISSUANCE OF WARRANT UPON COMPLAINT. — Whenever complaint shall be made, in writing and upon oath, to any associate circuit judge setting forth that a felony has been committed, and the name of the person accused thereof, it shall be the duty of such associate circuit judge to issue a warrant reciting the accusation, and commanding the officer to whom it shall be directed forthwith to take the accused and bring him before such associate circuit judge, to be dealt with according to law. **The complaint may be made and the warrant may be issued via facsimile or other electronic means.**

559.026. DETENTION CONDITION OF PROBATION. — Except in infraction cases, when probation is granted, the court, in addition to conditions imposed pursuant to section 559.021, may require as a condition of probation that the offender submit to a period of detention up to forty-eight hours after the determination by a probation or parole officer that the offender violated a condition of continued probation or parole in an appropriate institution at whatever time or intervals within the period of probation, consecutive or nonconsecutive, the court shall designate, or the board of probation and parole shall direct. Any person placed on probation in a county of the first class or second class or in any city with a population of five hundred thousand or more and detained as herein provided shall be subject to all provisions of section 221.170, RSMo, even though he was not convicted and sentenced to a jail or workhouse.

(1) In misdemeanor cases, the period of detention under this section shall not exceed the shorter of [fifteen] **thirty** days or the maximum term of imprisonment authorized for the misdemeanor by chapter 558, RSMo.

(2) In felony cases, the period of detention under this section shall not exceed one hundred twenty days.

(3) If probation is revoked and a term of imprisonment is served by reason thereof, the time spent in a jail, half-way house, honor center, workhouse or other institution as a detention

condition of probation shall be credited against the prison or jail term served for the offense in connection with which the detention condition was imposed.

570.030. STEALING — PENALTIES. — 1. A person commits the crime of stealing if he or she appropriates property or services of another with the purpose to deprive him or her thereof, either without his or her consent or by means of deceit or coercion.

2. Evidence of the following is admissible in any criminal prosecution pursuant to this section on the issue of the requisite knowledge or belief of the alleged stealer:

(1) That he or she failed or refused to pay for property or services of a hotel, restaurant, inn or boardinghouse;

(2) That he or she gave in payment for property or services of a hotel, restaurant, inn or boardinghouse a check or negotiable paper on which payment was refused;

(3) That he or she left the hotel, restaurant, inn or boardinghouse with the intent to not pay for property or services;

(4) That he or she surreptitiously removed or attempted to remove his or her baggage from a hotel, inn or boardinghouse;

(5) That he or she, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters, counterfeits, or reproduces a retail sales receipt, price tag, or universal price code label, or possesses with intent to cheat or defraud, the device that manufactures fraudulent receipts or universal price code labels.

3. Notwithstanding any other provision of law, any offense in which the value of property or services is an element is a class C felony if:

(1) The value of the property or services appropriated is five hundred dollars or more but less than twenty-five thousand dollars; or

(2) The actor physically takes the property appropriated from the person of the victim; or

(3) The property appropriated consists of:

(a) Any motor vehicle, watercraft or aircraft; or

(b) Any will or unrecorded deed affecting real property; or

(c) Any credit card or letter of credit; or

(d) Any firearms; or

(e) A United States national flag designed, intended and used for display on buildings or stationary flagstaffs in the open; or

(f) Any original copy of an act, bill or resolution, introduced or acted upon by the legislature of the state of Missouri; or

(g) Any pleading, notice, judgment or any other record or entry of any court of this state, any other state or of the United States; or

(h) Any book of registration or list of voters required by chapter 115, RSMo; or

(i) Any animal of the species of horse, mule, ass, cattle, swine, sheep, or goat; or

(j) Live fish raised for commercial sale with a value of seventy-five dollars; or

(k) Any controlled substance as defined by section 195.010, RSMo; or

(l) Anhydrous ammonia; [or]

(m) Ammonium nitrate; **or**

(n) Any document of historical significance which has fair market value of five hundred dollars or more.

4. If an actor appropriates any material with a value less than five hundred dollars in violation of this section with the intent to use such material to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues, then such violation is a class D felony. The theft of any amount of anhydrous ammonia or liquid nitrogen, or any attempt to steal any amount of anhydrous ammonia or liquid nitrogen, is a class C felony. The theft of any amount of anhydrous ammonia by appropriation of a tank truck, tank trailer, rail tank car, bulk storage tank, field (nurse) tank or field applicator is a class A felony.

5. The theft of any item of property or services pursuant to subsection 3 of this section which exceeds five hundred dollars may be considered a separate felony and may be charged in separate counts.

6. Any person with a prior conviction of paragraph (i) of subdivision (3) of subsection 3 of this section and who violates the provisions of paragraph (i) of subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen exceeds three thousand dollars is guilty of a class B felony.

7. Any offense in which the value of property or services is an element is a class B felony if the value of the property or services equals or exceeds twenty-five thousand dollars.

8. Any violation of this section for which no other penalty is specified in this section is a class A misdemeanor.

570.200. DEFINITIONS. — As used in this act, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Library", any public library or any library of an educational, historical or eleemosynary institution, organization or society; **any museum; any repository of public or institutional records; or any archive;**

(2) "Library card", a card or other device utilized by a library for purposes of identifying a person authorized to borrow library material, subject to all limitations and conditions imposed on such borrowing by the library issuing or honoring such card;

(3) "Library material", any book, plate, picture, photograph, engraving, painting, sculpture, artifact, drawing, map, newspaper, microform, sound recording, audiovisual material, magnetic or other tape, electronic data processing record or other document, written or printed material, regardless of physical form or characteristic, which is a constituent element of a library's collection or any part thereof, belonging to, on loan to, or otherwise in the custody of a library;

(4) "Notice in writing", any notice deposited as certified or registered mail in the United States mail and addressed to the person at his address as it appears on the library card or to his last known address. The notice shall contain a statement that failure to return the library material within ten days of receipt of the notice may subject the user to criminal prosecution;

(5) "Premises of a library", a building structure or other enclosure in which a library is located or in which the library keeps, displays and makes available for inspection, borrowing or return of library materials.

570.210. LIBRARY THEFT, PENALTY. — 1. A person commits the crime of library theft if with the purpose to deprive, [he] **such person**:

(1) Knowingly removes any library material from the premises of a library without authorization; or

(2) Borrows or attempts to borrow any library material from a library by use of a library card:

(a) Without the consent of the person to whom it was issued; or

(b) Knowing that the library card is revoked, canceled or expired; or

(c) Knowing that the library card is falsely made, counterfeit or materially altered; or

(3) Borrows library material from any library pursuant to an agreement or procedure established by the library which requires the return of such library material and, with the purpose to deprive the library of the library material, fails to return the library material to the library; **or**

(4) Knowingly writes on, injures, defaces, tears, cuts, mutilates, or destroys a book, document, or other library material belonging to, on loan to, or otherwise in the custody of a library.

2. It shall be prima facie evidence of the person's purpose to deprive the library of the library materials if, within ten days after notice in writing deposited as certified mail from the library demanding the return of such library material, [he] **such person** without good cause shown fails to return the library material. A person is presumed to have received the notice

required by this subsection if the library mails such notice to the last address provided to the library by such person. **Payment to the library, in an amount equal to the fair market value of an item of no historical significance shall be considered returning the item for purposes of this subsection.**

3. The crime of library theft [is a class C felony if the value of the library material is five hundred dollars or more; otherwise, library theft] is a class C misdemeanor **if the value of the library materials is less than five hundred dollars. The crime of library theft is a class C felony if the value of the library material is between five hundred dollars and twenty-five thousand dollars. The crime of library theft is a class B felony if the value of the library material is greater than twenty-five thousand dollars.**

590.118. PEACE OFFICER INVESTIGATIONS MADE AVAILABLE TO HIRING LAW ENFORCEMENT AGENCIES. — 1. All completed investigations of alleged acts of a peace officer shall be made available to any hiring law enforcement agency. The transfer of any law enforcement agency record to another law enforcement agency does not make the record a public record.

2. Any law enforcement agency with information showing a peace officer's unfitness for licensure shall provide such information to the peace officer's standards and training commission.

595.045. FUNDING — COSTS FOR CERTAIN VIOLATIONS, AMOUNT, DISTRIBUTION OF FUNDS, AUDIT — JUDGMENTS IN CERTAIN CASES, AMOUNT — FAILURE TO PAY, EFFECT, NOTICE — COURT COST DEDUCTED — INSUFFICIENT FUNDS TO PAY CLAIMS, PROCEDURE — INTEREST EARNED, DISPOSITION. — 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the payment of an annual appropriation for the administrative and operational costs of the office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on [October 1, 1996] **September 1, 2004**, and on the first of each month, [if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then] the director of revenue or the director's designee shall deposit fifty percent **of the balance of funds available** to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100[;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100].

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the division of workers' compensation and the department of public safety, respectively.

6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on [October 1, 1996] **September 1, 2004**, and on the first of each month[, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then] the director of revenue or the director's designee shall deposit fifty percent **of the balance of funds available** to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100[;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100].

7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars [if the conviction is] upon a plea of guilty or a finding

of guilt for a class A or B felony; forty-six dollars if the conviction is for a class C or D felony; and ten dollars [if the conviction is] **upon a plea of guilty or a finding of guilt** for any misdemeanor under [the following] Missouri [laws:

- (1) Chapter 195, RSMo, relating to drug regulations;
- (2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;
- (3) Chapter 491, RSMo, relating to witnesses;
- (4) Chapter 565, RSMo, relating to offenses against the person;
- (5) Chapter 566, RSMo, relating to sexual offenses;
- (6) Chapter 567, RSMo, relating to prostitution;
- (7) Chapter 568, RSMo, relating to offenses against the family;
- (8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;
- (9) Chapter 570, RSMo, relating to stealing and related offenses;
- (10) Chapter 571, RSMo, relating to weapons offenses;
- (11) Chapter 572, RSMo, relating to gambling;
- (12) Chapter 573, RSMo, relating to pornography and related offenses;
- (13) Chapter 574, RSMo, relating to offenses against public order;
- (14) Chapter 575, RSMo, relating to offenses against the administration of justice;
- (15) Chapter 577, RSMo, relating to public safety offenses.] **law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo, relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo, relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle equipment regulations.** Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

9. The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

10. The clerks of the court shall report all delinquent payments to the department of revenue by October first of each year for the preceding fiscal year, and such sums may be withheld pursuant to subsection 15 of this section.

11. The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection 18 of this section and shall maintain separate records of collection for alcohol-related offenses.

12. [Notwithstanding any other provision of law to the contrary, the provisions of subsections 9 and 10 of this section shall expire and be of no force and effect upon the effective date of the supreme court rule adopted pursuant to sections 488.010 to 488.020, RSMo.

13.] The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

[14.] **13.** All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended

balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

[15.] **14.** When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

[16.] **15.** All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

[17.] **16.** Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

[18.] **17.** Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines.

595.050. CONTRACTS FOR SERVICES TO VICTIMS, REQUIREMENTS, LIMITATIONS. — 1. From funds appropriated for services to victims of crime, the director may contract with public or private agencies to provide assistance to victims of crime through direct services, emergency services, crisis intervention counseling and victim advocacy. Any such contract may consist solely of, or may include, educational and informational services to the public about the availability of services for victims of crime which are designed to alleviate the results of criminal acts. Under no circumstances shall the expenditures from general revenue for the purpose provided in this section exceed the amount of ninety thousand dollars each fiscal year.

2. The director shall ensure that funds administered under section 595.055, section 595.105 and this section will not be used by any agency to supplant existing funds which are presently being used to provide assistance to victims of crime. **This restriction shall not apply to funds used by any not-for-profit agency.**

3. Each contract shall be subject to review by the director at least annually.

610.100. DEFINITIONS — ARREST AND INCIDENT RECORDS SHALL BE AVAILABLE TO PUBLIC — CLOSED RECORDS, WHEN — RECORD REDACTED, WHEN — ACCESS TO INCIDENT REPORTS, RECORD REDACTED, WHEN — ACTION FOR DISCLOSURE OF INVESTIGATIVE REPORT AUTHORIZED, COSTS — APPLICATION TO OPEN INCIDENT AND ARREST REPORTS, VIOLATIONS, CIVIL PENALTY — IDENTITY OF VICTIM OF SEXUAL OFFENSE. — 1. As used in sections 610.100 to 610.150, the following words and phrases shall mean:

(1) "Arrest", an actual restraint of the person of the defendant, or by his or her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked;

(2) "Arrest report", a record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor;

(3) "Inactive", an investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

(a) A decision by the law enforcement agency not to pursue the case;

(b) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten years after the commission of the offense; whichever date earliest occurs;

(c) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons;

(4) "Incident report", a record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency;

(5) "Investigative report", a record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

2. Each law enforcement agency of this state, of any county, and of any municipality, shall maintain records of all incidents reported to the agency, investigations and arrests made by such law enforcement agency. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsections 4, 5 and 6 of this section or section 320.083, RSMo, investigative reports of all law enforcement agencies are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed and except as provided in section 610.120.

3. Except as provided in subsections 4, 5, 6 and 7 of this section, if any portion of a record or document of a law enforcement officer or agency, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for law enforcement investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this chapter.

4. Any person, **including a family member of such person within the first degree of consanguinity if such person is deceased or incompetent**, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or section 610.150 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his or her **family member within the first degree of consanguinity if such individual is deceased or incompetent, his or her** attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by a law enforcement agency pursuant to this section. Within thirty days of such request, the agency shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the law enforcement agency stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. If,

based on such motion, the court finds for the law enforcement agency, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.

5. Any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of the information contained in an investigative report of any law enforcement agency, which would otherwise be closed pursuant to this section. The court may order that all or part of the information contained in an investigative report be released to the person bringing the action. In making the determination as to whether information contained in an investigative report shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the law enforcement agency or any of its officers, or to any person identified in the investigative report in regard to the need for law enforcement agencies to effectively investigate and prosecute criminal activity. The investigative report in question may be examined by the court in camera. The court may find that the party seeking disclosure of the investigative report shall bear the reasonable and necessary costs and attorneys' fees of both parties, unless the court finds that the decision of the law enforcement agency not to open the investigative report was substantially unjustified under all relevant circumstances, and in that event, the court may assess such reasonable and necessary costs and attorneys' fees to the law enforcement agency.

6. Any person may apply pursuant to this subsection to the circuit court having jurisdiction for an order requiring a law enforcement agency to open incident reports and arrest reports being unlawfully closed pursuant to this section. If the court finds by a preponderance of the evidence that the law enforcement officer or agency has purposely violated this section, the officer or agency shall be subject to a civil penalty in an amount not to exceed five hundred dollars, and the court shall order payment by such officer or agency of all costs and attorneys' fees, as provided by section 610.027.

7. The victim of an offense as provided in chapter 566, RSMo, may request that his or her identity be kept confidential until a charge relating to such incident is filed.

630.130. ELECTROCONVULSIVE THERAPY, PROCEDURE — PROHIBITIONS — ATTORNEY'S FEES. — 1. Every patient, whether voluntary or involuntary, in a public or private mental health facility shall have the right to refuse electroconvulsive therapy.

2. Before electroconvulsive therapy may be administered voluntarily to a patient, the patient shall be informed, both orally and in writing, of the risks of the therapy and shall give his express written voluntary consent to receiving the therapy.

3. Involuntary electroconvulsive therapy may be administered under a court order after a full evidentiary hearing where the patient refusing such treatment is represented by counsel who shall advocate his **or her** position. The therapy may be administered on an involuntary basis only if it is shown, by clear and convincing evidence, that the therapy is necessary under the following criteria:

(1) There is a strong likelihood that the therapy will significantly improve or cure the patient's mental disorder for a substantial period of time without causing him any serious functional harm; and

(2) There is no less drastic alternative form of therapy which could lead to substantial improvement in the patient's condition. At the conclusion of such hearing, if the petitioner has sustained his burden of proof, the court may order up to a specified number of involuntary electroconvulsive therapy treatments to be performed over a specified period of time.

4. Parents of minor patients or legal guardians of incompetent patients shall be required to obtain court orders authorizing electroconvulsive therapy under the procedures specified in subsection 3 of this section.

5. Persons who are diagnosed solely as mentally retarded shall not be subject to electroconvulsive therapy.

6. If the judge finds that the respondent is unable to pay attorney's fees for the services rendered in the proceedings the judge shall allow a reasonable attorney's fee for the services, which fee shall be assessed as costs and paid together with all the costs in the proceeding by the state, in accordance with rules and regulations promulgated by the state court administrator, from funds appropriated to the office of administration for such purposes provided that no attorney's fees shall be allowed for services rendered by any attorney who is a salaried employee of a public agency or a private agency which receives public funds.

632.498. ANNUAL EXAMINATION OF MENTAL CONDITION — ANNUAL REVIEW BY THE COURT — PETITION FOR RELEASE, HEARING, PROCEDURES (WHEN DIRECTOR DISAPPROVES). — Each person committed pursuant to sections 632.480 to 632.513 shall have a current examination of the person's mental condition made once every year by the director of the department of mental health or designee. The yearly report shall be provided to the court that committed the person pursuant to sections 632.480 to 632.513. The court shall conduct an annual review of the status of the committed person. Nothing contained in sections 632.480 to 632.513 shall prohibit the person from otherwise petitioning the court for discharge. The director of the department of mental health shall provide the committed person with an annual written notice of the person's right to petition the court for release over the director's objection. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report. The committed person shall have a right to have an attorney represent the person at the hearing but the person is not entitled to be present at the hearing. If the court at the hearing determines [that probable cause exists to believe] **by a preponderance of the evidence** that the [person's mental abnormality has so changed that the person is safe to be at large and will not] **person no longer suffers from a mental abnormality that makes the person likely** to engage in acts of sexual violence if discharged, then the court shall set a hearing on the issue. At the hearing, the committed person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding. The attorney general shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by a psychiatrist or psychologist not employed by the department of mental health or the department of corrections. In addition, the person may be examined by a consenting psychiatrist or psychologist of the person's choice at the person's own expense. The burden of proof at the [hearing] **trial** shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality remains such that the person is not safe to be at large and if released is likely to engage in acts of sexual violence.

SECTION 1. REAL ESTATE LICENSEE, IMMUNITY FROM LIABILITY, WHEN. — 1. A real estate licensee shall be immune from liability for statements made by engineers, land surveyors, geologists, environmental hazard experts, wood destroying inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other home inspection experts unless:

(1) The statement was made by a person employed by the licensee or the broker with whom the licensee is associated;

(2) The person making the statement was selected by and engaged by the licensee;
or

(3) The licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

2. A real estate licensee shall not be the subject of any action and no action shall be instituted against a real estate licensee for any information contained in a seller's disclosure for residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real estate licensee is a signatory to such or the licensee knew prior to closing that the statement was false or the licensee acted in reckless disregard as to whether the statement was true or false.

3. A real estate licensee acting as a courier of documents referenced in this section shall not be considered to be making the statements contained in such documents.

[478.725. MECHANIC'S LIENS, WHERE FILED (MARION COUNTY). — When any person is, by the statutes of this state, entitled to a lien for performing any work or labor upon or furnishing any materials, fixtures, engine, boiler or machinery for any building, erection or improvement upon land, or for repairing the same, in Mason or Miller townships, in Marion County, under or by virtue of any contract with the owner or proprietor thereof, or his agent, trustee, contractor or subcontractor, and such person so entitled to such lien, wishing to avail himself of the benefit of said laws, shall file his lien in the office of the clerk of district number 2 of the Marion County circuit court, and not elsewhere.]

[491.300. FEES OF INTERPRETERS. — 1. Interpreters and translators in civil and criminal cases shall be allowed a reasonable fee approved by the court.

2. Such fee shall be payable by the state in criminal cases from funds appropriated to the office of the state courts administrator if the person requiring an interpreter or translator during the court proceeding is a party to or witness in the proceeding.]

[494.431. POLICE OFFICERS, ST. LOUIS CITY, SHALL BE EXCUSED FROM JURY DUTY. — Any police officer subject to section 84.160, RSMo, shall be excused from service as a juror, either grand or petit.]

[526.020. GRANTING OF INJUNCTION BY ASSOCIATE CIRCUIT JUDGE, WHEN. — Unless an associate circuit judge is specially assigned or transferred to hear the cause, before an injunction shall be granted by an associate circuit judge, the applicant shall produce satisfactory evidence that there is not then any circuit judge within such county.]

SECTION B. SEVERABILITY CLAUSE. — The provisions of section A of this act are severable. If any portion of section A of this act is declared unconstitutional or the application of any part of this act to any person or circumstance is held invalid, the remaining portions of the act and their applicability to any person or circumstance shall remain valid and enforceable.

Approved July 7, 2004

SB 1233 [HS SS SCS SBs 1233, 840 & 1043]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws related to motor vehicles.

AN ACT to repeal sections 21.795, 67.1800, 67.1808, 67.1818, 137.298, 144.025, 226.030, 226.060, 226.092, 227.120, 301.010, 301.020, 301.025, 301.041, 301.069, 301.129, 301.130, 301.132, 301.141, 301.142, 301.143, 301.144, 301.190, 301.193, 301.217, 301.219, 301.221, 301.227, 301.280, 301.290, 301.444, 301.463, 301.469, 301.562, 301.566, 301.681, 301.2999, 301.3098, 302.130, 302.171, 302.173, 302.177, 302.181, 302.225, 302.230, 302.272, 302.302, 302.309, 302.700, 302.720, 302.725, 302.735, 302.740, 302.755, 302.756, 302.760, 304.013, 304.035, 304.070, 304.155, 304.156, 304.157, 304.170, 304.190, 306.461, 306.530, 307.020, 307.040, 307.100, 307.400, 365.020, 365.080, 365.100, 390.020, 390.136, 390.340, 407.567, 407.730, 407.735,

408.140, 577.054, 577.080, 590.650, 622.095, 622.618, 622.350, and 700.320, RSMo, and to enact in lieu thereof one hundred thirty-eight new sections relating to motor vehicles, with penalty provisions, an effective date for certain sections and an emergency clause.

SECTION

A. Enacting clause.

- 21.795. Joint committee on transportation oversight, members, quorum — transportation inspector general, appointment, duties — report, when, contents — meetings, examination of reports, records required to be submitted.
- 67.1800. Definitions.
- 67.1808. Powers of the commission.
- 67.1813. Special taxicab license plate, application for, fee — revocation, effect of — rulemaking authority.
- 67.1818. Licensure, taxicab code to include administrative procedures.
- 67.1819. Background checks required, when — payment of fee.
- 137.298. Cities may pass ordinance to include charges for outstanding parking tickets on personal property tax bill — personal property tax receipt, issued when — cities may enter into agreements with county to include outstanding vehicle-related fees and fines on personal property tax bill.
- 144.025. Transactions involving trade-in or rebate, how computed — exceptions — definitions — agricultural use, allowance.
- 226.030. Number of members — qualifications — term — removal — compensation.
- 226.060. Authorized to select chief legal counsel — salary and qualifications — assistant attorneys, how appointed.
- 226.092. Commission may provide automobile liability insurance when — self-insured and partial self-insured plans, when.
- 227.120. Commission empowered to purchase or lease lands to exercise right of eminent domain — restriction of or loss of access to be considered.
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- 301.069. Driveaway license plates, restriction on use — annual driveaway license or choice of biennial license, fees.
- 301.129. Advisory committee, duties, members, public meetings, expenses, dissolution of committee.
- 301.130. License plates, required slogan and information — special plates — plates, how displayed — tabs to be used — rulemaking authority, procedure.
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- 301.143. Parking space for physically disabled may be established by political subdivisions and others, signs — violations — enforcement — penalty.
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 - 302.725. Driving without commercial driver's license, penalty.
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 - 302.735. Application for commercial license, contents, fee, expiration, duration, duplicate license — new resident, application dates — falsification of information, ineligibility for license, when.
 - 302.740. License, manufacture of, requirements — driving information to be obtained prior to issue of license, notice to commercial driver license information system, when.
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 - 304.154. Towing truck company requirements.
 - 304.155. Abandoned motor vehicles on public property, removal — hazards on land and water, removal, limited liability, when — towing of property report to highway or water patrol or crime inquiry and inspection report when, owner liable for costs — check for stolen vehicles procedure — reclaiming vehicle — lien for charges — record maintenance by towing companies — lienholder repossession, procedure.
 - 304.156. Notice to towing company, owner or lienholder, when — storage charges, when authorized — search of vehicle for ownership documents — petition, determination of wrongful taking — possessory lien, new title, how issued — sale of abandoned property by municipality or county, requirements — towing company, new title when.
 - 304.157. Vehicles left unattended or improperly parked on private property of another, procedure for removal and disposition — violation of certain required procedure, penalty.
 - 304.170. Regulations as to width, height and length of vehicles — exceptions.
 - 304.190. Height and weight regulations (cities of 75,000 or more) — commercial zone defined.
 - 304.601. Use of designated disabled parking spaces, when.
 - 306.461. Certificate of title in beneficiary form — multiple beneficiaries allowed — procedure to issue, content, fee — consent not required for transactions, revocation — interest subject to certain claims — transfer not deemed testamentary.
 - 306.530. Registration of outboard motors.
 - 307.020. Definitions.
 - 307.040. When lights required — violation, penalty.
 - 307.100. Limitations on lamps other than headlamps — flashing signals prohibited except on specified vehicles — penalty.
 - 307.400. Commercial vehicles, equipment and operation, regulations, exceptions — department of public safety, rules, procedure, this chapter.
 - 365.020. Definitions.
 - 365.080. Insurance included in retail installment transactions — restrictions.
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 - 390.020. Definitions.
 - 390.136. Motor carriers, regulatory license required — annual, issued when — emergency or temporary license for seventy-two hours — fees — out-of-state agreements, effect — violation, penalty.
 - 407.567. Replacement of motor vehicle or refund of purchase price, when — allowance deducted for consumer's use — reimbursement, when, application for.
 - 407.730. Definitions.
 - 407.735. Business practices, nondeceptive — collision damage waiver, terms, conditions, notice required — damages, estimates, how made — remedies.
 - 407.1200. Definitions.
 - 407.1203. Service contracts issued, when, requirements — registration, fee — faithful performance of obligations, requirements — fees not taxable — licensing requirement exemption, exception — compliance.
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 - 407.1209. Service contract form — required statements — required contents — return of contract, when — additional required contents.
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- 407.1212. Provider's use of name prohibited, when — false statements prohibited — purchase of service contract not required, when.
- 407.1215. Accurate records required — record contents — records retained, time period — electronic records — discontinued business records maintained, time period — records available to director upon request.
- 407.1218. Notice of termination required before termination.
- 407.1221. Providers considered agents of insurer — indemnification not prohibited.
- 407.1224. Director's powers — hearing may be requested — director's duty — director may seek injunction — penalty.
- 407.1225. Rulemaking authority.
- 407.1227. Limitations on application of service contract law.
- 408.140. Additional charges or fees prohibited, exceptions — no finance charges if purchases are paid for within certain time limit, exception.
- 577.054. Alcohol-related driving offenses, expunged from records, when — procedures, effect — limitations
- 577.080. Abandoning motor vehicle — last owner of record deemed the owner of abandoned motor vehicle, procedures — penalty — civil liability.
- 590.650. Racial profiling — minority group defined — reporting requirements — annual report — review of findings — failure to comply — funds for audio-visual equipment — sobriety check points exempt.
- 622.095. Division authorized to contract with other jurisdictions — uniform administration of certain interstate vehicles — powers — base state registration fund established — properly registered vehicle operation allowed — fees may be staggered and prorated.
- 622.350. Burden of proof in all proceedings.
- 700.320. Certificate of title, application procedure, fees — payment of sales tax before issuance — purchase price, defined — certificates may be transferred, when, procedure.
 - 1. Survivorship interest in manufactured homes — issuance of certificates of ownership, requirements, restrictions.
 - 2. Lawfully present defined.
- 390.340. Annual licenses required by 390.136, period of effectiveness, fees, when due.
- 622.618. Motor carriers, license required — annual, issued when — annual license fees.
 - B. Emergency clause.
 - C. Effective date.
 - D. Effective date.
 - E. Effective date.
 - F. Effective date.
 - G. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 21.795, 67.1800, 67.1808, 67.1818, 137.298, 144.025, 226.030, 226.060, 226.092, 227.120, 301.010, 301.020, 301.025, 301.041, 301.069, 301.129, 301.130, 301.132, 301.141, 301.142, 301.143, 301.144, 301.190, 301.193, 301.217, 301.219, 301.221, 301.227, 301.280, 301.290, 301.444, 301.463, 301.469, 301.562, 301.566, 301.681, 301.2999, 301.3098, 302.130, 302.171, 302.173, 302.177, 302.181, 302.225, 302.230, 302.272, 302.302, 302.309, 302.700, 302.720, 302.725, 302.735, 302.740, 302.755, 302.756, 302.760, 304.013, 304.035, 304.070, 304.155, 304.156, 304.157, 304.170, 304.190, 306.461, 306.530, 307.020, 307.040, 307.100, 307.400, 365.020, 365.080, 365.100, 390.020, 390.136, 390.340, 407.567, 407.730, 407.735, 408.140, 577.054, 577.080, 590.650, 622.095, 622.618, 622.350, and 700.320, RSMo, are repealed and one hundred thirty-eight new sections enacted in lieu thereof, to be known as sections 21.795, 67.1800, 67.1808, 67.1813, 67.1818, 67.1819, 137.298, 144.025, 226.030, 226.060, 226.092, 227.120, 301.010, 301.020, 301.025, 301.041, 301.069, 301.129, 301.130, 301.132, 301.134, 301.141, 301.142, 301.143, 301.144, 301.190, 301.193, 301.196, 301.197, 301.198, 301.217, 301.219, 301.221, 301.227, 301.280, 301.290, 301.444, 301.463, 301.469, 301.562, 301.566, 301.681, 301.2999, 301.3032, 301.3074, 301.3079, 301.3098, 301.3106, 301.3122, 301.3124, 301.3125, 301.3126, 301.3128, 301.3130, 301.3131, 301.3132, 301.3133, 301.3137, 301.3139, 301.3142, 301.3143, 301.3144, 301.3146, 301.3147, 301.3150, 301.3152, 301.3154, 301.3155, 301.3999, 302.130, 302.171, 302.173, 302.177, 302.181, 302.225, 302.230, 302.233, 302.272, 302.273, 302.302, 302.309, 302.345, 302.347, 302.700, 302.720, 302.725, 302.727, 302.735, 302.740, 302.755, 302.756, 302.760, 304.013, 304.029, 304.031, 304.035, 304.070, 304.154, 304.155, 304.156, 304.157, 304.170, 304.190, 304.601, 306.461, 306.530, 307.020, 307.040, 307.100, 307.400, 365.020, 365.080, 365.100, 390.020, 390.136, 407.567, 407.730, 407.735, 407.1200, 407.1203, 407.1206,

407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, 407.1227, 408.140, 577.054, 577.080, 590.650, 622.095, 622.350, 700.320, 1, and 2, to read as follows:

21.795. JOINT COMMITTEE ON TRANSPORTATION OVERSIGHT, MEMBERS, QUORUM — TRANSPORTATION INSPECTOR GENERAL, APPOINTMENT, DUTIES — REPORT, WHEN, CONTENTS — MEETINGS, EXAMINATION OF REPORTS, RECORDS REQUIRED TO BE SUBMITTED. — 1. There is established a permanent joint committee of the general assembly to be known as the "Joint Committee on Transportation Oversight" to be composed of seven members of the standing transportation committees of both the senate and the house of representatives and three nonvoting ex officio members. Of the fourteen members to be appointed to the joint committee, the seven senate members of the joint committee shall be appointed by the president pro tem of the senate and minority leader of the senate and the seven house members shall be appointed by the speaker of the house of representatives and the minority floor leader of the house of representatives. No major party shall be represented by more than four members from the house of representatives nor more than four members from the senate. The ex officio members shall be the state auditor, the director of the oversight division of the committee on legislative research, and the commissioner of the office of administration or the designee of such auditor, director or commissioner. The joint committee shall be chaired jointly by both chairs of the senate and house transportation committees. A majority of the committee shall constitute a quorum, but the concurrence of a majority of the members, other than the ex officio members, shall be required for the determination of any matter within the committee's duties.

2. The transportation inspector general shall be appointed by majority vote of a group consisting of the speaker of the house of representatives, the minority floor leader of the house of representatives, the president pro tempore of the senate, and the minority floor leader of the senate. It shall be the duty of the inspector general to serve as the executive director of the joint committee on transportation oversight. The compensation of the inspector general and other personnel shall be paid from the joint contingent fund or jointly from the senate and house contingent funds until an appropriation is made therefor. No funds from highway user fees or other funds allocated for the operation of the department of transportation shall be used for the compensation of the inspector general and his or her staff. The joint committee inspector general initially appointed pursuant to this section shall take office January 1, 2004, for a term ending June 30, 2005. Subsequent joint committee on transportation oversight directors shall be appointed for five-year terms, beginning July 1, 2005. Any joint committee on transportation oversight inspector general whose term is expiring shall be eligible for reappointment. The inspector general of the joint committee on transportation oversight shall:

(1) Be qualified by training or experience in transportation policy, management of transportation organizations, accounting, auditing, financial analysis, law, management analysis, or public administration;

(2) Report to and be under the general supervision of the joint committee. The joint committee on transportation oversight shall, by a majority vote, direct the inspector general to perform specific investigations, reviews, audits, or other studies of the state department of transportation, in which instance the director shall report the findings and recommendations directly to the joint committee on transportation oversight. All investigations, reviews, audits, or other studies performed by the director shall be conducted so that the general assembly can procure information to assist it in formulating transportation legislation and policy for this state;

(3) Receive and process citizen complaints relating to transportation issues. The inspector general shall, when necessary, submit a written complaint report to the joint committee on transportation oversight and the highways and transportation commission. The complaint report shall contain the date, time, nature of the complaint, and any immediate facts and circumstances surrounding the initial report of the complaint. The inspector general shall investigate a citizen

complaint if he or she is directed to do so by a majority of the joint committee on transportation oversight;

(4) Investigate complaints from current and former employees of the department of transportation if the inspector general receives information from an employee which shows:

- (a) The department is violating a law, rule, or regulation;
- (b) Gross mismanagement by department officers;
- (c) Waste of funds by the department;
- (d) That the department is engaging in activities which pose a danger to public health and safety;

(5) Maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before the inspector general except insofar as disclosures may be necessary to enable the inspector general to carry out duties and to support recommendations;

(6) Maintain records of all investigations conducted, including any record or document or thing, any summary, writing, complaint, data of any kind, tape or video recordings, electronic transmissions, e-mail, or other paper or electronic documents, records, reports, digital recordings, photographs, software programs and software, expense accounts, phone logs, diaries, travel logs, or other things, including originals or copies of any of the above. Records of investigations by the inspector general shall be an "investigative report" of law enforcement agency pursuant to the provisions of section 610.100, RSMo. As provided in such section, such records shall be a closed record until the investigation becomes inactive. If the inspector general refers a violation of law to the appropriate prosecuting attorney or the attorney general, such records shall be transmitted with the referral. If the inspector general finds no violation of law or determines not to refer the subject of the investigation to the appropriate prosecuting attorney or the attorney general regarding matters referred to the appropriate prosecuting attorney or the attorney general and the statute of limitations expires without any action being filed, the record shall remain closed. As provided in section 610.100, RSMo, any person may bring an action pursuant to this section in the circuit court having jurisdiction to authorize disclosure of information in the records of the inspector general which would otherwise be closed pursuant to this section. Any disclosure of records by the inspector general in violation of this section shall be grounds for a suit brought by any individual, person, or corporation to recover damages, and upon award to the plaintiff reasonable attorney's fees.

3. The department of transportation shall submit a written report prior to November tenth of each year to the governor, lieutenant governor, and every member of the senate and house of representatives. The report shall be posted to the department's Internet website so that general assembly members may elect to access a copy of the report electronically. The written report shall contain the following:

(1) A comprehensive financial report of all funds for the preceding state fiscal year which shall include a report by independent certified public accountants, selected by the commissioner of the office of administration, attesting that the financial statements present fairly the financial position of the department in conformity with generally accepted government accounting principles. This report shall include amounts of:

(a) State revenues by sources, including all new state revenue derived from highway users which results from action of the general assembly or voter-approved measures taken after August 28, 2003, and projects funded in whole or in part from such new state revenue, and amounts of federal revenues by source;

(b) Any other revenues available to the department by source;

(c) Funds appropriated, the amount the department has budgeted and expended for the following: contracts, right-of-way purchases, preliminary and construction engineering, maintenance operations and administration;

(d) Total state and federal revenue compared to the revenue estimate in the fifteen-year highway plan as adopted in 1992.

All expenditures made by, or on behalf of, the department for personal services including fringe benefits, all categories of expense and equipment, real estate and capital improvements shall be assigned to the categories listed in this subdivision in conformity with generally accepted government accounting principles;

(2) A detailed explanation of the methods or criteria employed to select construction projects, including a listing of any new or reprioritized projects not mentioned in a previous report, and an explanation as to how the new or reprioritized projects meet the selection methods or criteria;

(3) The proposed allocation and expenditure of moneys and the proposed work plan for the current fiscal year, at least the next four years, and for any period of time expressed in any public transportation plan approved by either the general assembly or by the voters of Missouri. This proposed allocation and expenditure of moneys shall include the amounts of proposed allocation and expenditure of moneys in each of the categories listed in subdivision (1) of this subsection;

(4) The amounts which were planned, estimated and expended for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation in the preceding state fiscal year and amounts which have been planned, estimated or expended by project for construction work in progress;

(5) The current status as to completion, by project, of the fifteen-year road and bridge program adopted in 1992. The first written report submitted pursuant to this section shall include the original cost estimate, updated estimate and final completed cost by project. Each written report submitted thereafter shall include the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project;

(6) The reasons for cost increases or decreases exceeding five million dollars or ten percent relative to cost estimates and final completed costs for projects in the state highway and bridge construction program or any other projects relating to other modes of transportation completed in the preceding state fiscal year. Cost increases or decreases shall be determined by comparing the cost estimate at the time the project was placed on the most recent five-year highway and bridge construction plan and the final completed cost by project. The reasons shall include the amounts resulting from inflation, departmentwide design changes, changes in project scope, federal mandates, or other factors;

(7) Specific recommendations for any statutory or regulatory changes necessary for the efficient and effective operation of the department;

(8) An accounting of the total amount of state, federal and earmarked federal highway funds expended in each district of the department of transportation; and

(9) Any further information specifically requested by the joint committee on transportation oversight.

4. Prior to December first of each year, the committee shall hold an annual meeting and call before its members, officials or employees of the state highways and transportation commission or department of transportation, as determined by the committee, for the sole purpose of receiving and examining the report required pursuant to subsection 3 of this section. The joint committee may also call before its members at the annual meeting, the inspector general of the joint committee on transportation oversight for purposes authorized in this section. The committee shall not have the power to modify projects or priorities of the state highways and transportation commission or department of transportation. The committee may make recommendations to the state highways and transportation commission or the department of transportation. Disposition of those recommendations shall be reported by the commission or the department to the joint committee on transportation oversight.

5. In addition to the annual meeting required by subsection 4 of this section, the committee shall meet two times each year. The co-chairs of the committee shall establish an agenda for

each meeting that may include, but not be limited to, the following items to be discussed with the committee members throughout the year during the scheduled meeting:

- (1) Presentation of a prioritized plan for all modes of transportation;
- (2) Discussion of department efficiencies and expenditure of cost-savings within the department;
- (3) Presentation of a status report on department of transportation revenues and expenditures, including a detailed summary of projects funded by new state revenue as provided in paragraph (a) of subdivision (1) of subsection 3 of this section;
- (4) Review of any report from the joint committee inspector general; and
- (5) Implementation of any actions as may be deemed necessary by the committee as authorized by law.

The co-chairs of the committee may call special meetings of the committee with ten days' notice to the members of the committee, the director of the department of transportation, and the department of transportation.

6. The committee shall also review for approval or denial all applications for the development of specialty plates submitted to it by the department of revenue. The committee shall approve such application by unanimous vote. The committee shall not approve any application if the committee receives a signed petition from five house members or two senators that they are opposed to the approval of the proposed license plate. The committee shall notify the director of the department of revenue upon approval or denial of an application for the development of a specialty plate.

7. The committee shall submit records of its meetings to the secretary of the senate and the chief clerk of the house of representatives in accordance with sections 610.020 and 610.023, RSMo.

67.1800. DEFINITIONS. — As used in sections 67.1800 to 67.1822, the following terms mean:

- (1) "Airport", Lambert-St. Louis International Airport and any other airport located within the district and designated by a chief executive;
- (2) "Airport authority", an entity established by city ordinance regarding governance of the airport with representatives appointed by the chief executives of the city, county, and other approximate counties within the region;
- (3) "Airport taxicab", a taxicab which picks up passengers for hire at the airport, transports them to places they designate by no regular specific route, and the charge is made on the basis of distance traveled as indicated by the taximeter;
- (4) "Chief executive", the mayor of the city and the county executive of the county;
- (5) "City", a city not within a county;
- (6) "Commission", the regional taxicab commission created in section 67.1804;
- (7) "County", a county with a charter form of government and with more than one million inhabitants;
- (8) "District", the geographical area encompassed by the regional taxicab commission;
- (9) "Driver", an individual operator of a motor vehicle and may be an employee or independent contractor;
- (10) "Hotel and restaurant industry", the group of enterprises actively engaged in the business of operating lodging and dining facilities for transient guests;
- (11) "Municipality", a city, town, or village which has been incorporated in accordance with the laws of the state of Missouri;
- (12) "On-call/reserve taxicab", any motor vehicle or nonmotorized carriage engaged in the business of carrying persons for hire on the streets of the district, whether the same is hailed on the streets by a passenger or is operated from a street stand, from a garage on a regular route, or between fixed termini on a schedule, and where no regular or specific route is traveled,

passengers are taken to and from such places as they designate, and the charge is made on the basis of distance traveled as indicated by a taximeter;

(13) "Premium sedan", any motor vehicle engaged in the business of carrying persons for hire on the streets of the district which seats a total of five or less passengers in addition to a driver and which carries in each vehicle a manifest or trip ticket containing the name and pickup address of the passenger or passengers who have arranged for the use of the vehicle, and the charge is a prearranged fixed contract price quoted for transportation between termini selected by the passenger;

(14) "Taxicab", airport taxicabs, on-call/reserve taxicabs and premium sedans referred to collectively as taxicabs;

(15) "Taxicab company", the use of one or more taxicabs operated as a business carrying persons for hire;

(16) "Taximeter", a meter instrument or device attached to an on-call taxicab or airport taxicab which measures mechanically or electronically the distance driven and the waiting time upon which the fare is based;

(17) **"Central Repository", the Missouri state highway patrol criminal records division for compiling and disseminating complete and accurate criminal history records;**

(18) **"Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges, and any disposition arising there from sentencing, correctional supervision and release.**

67.1808. POWERS OF THE COMMISSION. — The regional taxicab commission is empowered to:

(1) Develop and implement plans, policies, and programs to improve the quality of taxicab service within the district;

(2) Cooperate and collaborate with the hotel and restaurant industry to:

(a) Restrict the activities of those doormen employed by hotels and restaurants who accept payment from taxicab drivers or taxicab companies in exchange for the doormen's assistance in obtaining passengers for such taxicab drivers and companies; and

(b) Obtain the adherence of hotel shuttle vehicles to the requirement that they operate solely on scheduled trips between fixed termini and shall have authority to create guidelines for hotel and commercial shuttles;

(3) Cooperate and collaborate with other governmental entities, including the government of the United States, this state, and political subdivisions of this and other states;

(4) Cooperate and collaborate with governmental entities whose boundaries adjoin those of the district to assure that any taxicab or taxicab company neither licensed by the commission nor officed within its boundaries shall nonetheless be subject to those aspects of the taxicab code applicable to taxicabs operating within the district's boundaries;

(5) Contract with any public or private agency, individual, partnership, association, corporation or other entity, consistent with law, for the provision of services necessary to improve the quality of taxicab service within the district;

(6) Accept grants and donations from public or private entities for the purpose of improving the quality of taxicab service within the district;

(7) Execute contracts, sue, and be sued;

(8) Adopt a taxicab code to license and regulate taxicab companies and individual taxicabs within the district consistent with existing ordinances, and to provide for the enforcement of such code for the purpose of improving the quality of taxicab service within the district;

(9) Collect reasonable fees in an amount sufficient to fund the commission's licensing, regulatory, inspection, and enforcement functions; except that, [for the first year after the regional taxicab commission's taxicab code becomes effective, any increase in fees shall not exceed twenty percent of the total fees collected] **fees charged to entities regulated by the city or**

county prior to August 28, 2004, shall not exceed three times those amounts charged by such city or county in the first three years of the commission's operation, nor shall said fees exceed four times those amounts for the next three years and for subsequent years, the fees may be adjusted annually based on the rate of inflation according to the consumer price index. Previously regulated entities the class of service of which was regulated by both the city and the county may have fees based on the higher of the two fees charged for that class of service; [and]

(10) Establish accounts with appropriate banking institutions, borrow money, buy, sell, or lease property for the necessary functions of the commission; and

(11) Require taxicabs to display special taxicab license plates as provided in Chapter 301 in order to operate within the district. If the commission revokes the taxicab license the commission may confiscate such license plates and return them to the director of revenue pursuant to subsection 3 of section 67.1813.

67.1813. SPECIAL TAXICAB LICENSE PLATE, APPLICATION FOR, FEE — REVOCATION, EFFECT OF — RULEMAKING AUTHORITY. — 1. Any such person required by the regional taxicab commission pursuant to section 67.1808 to obtain and display a special taxicab license plate shall make application for such license plates on a form prescribed by the director of revenue.

2. Upon application and payment of the same fee as required in section 301.144, in addition to the regular registration fees and documents as required by law the director of revenue shall issue special taxicab license plates that display the word "TAXICAB" in place of the words "SHOW-ME STATE".

3. If the regional taxicab commission revokes the taxicab license authorizing the taxicab to be operated within the district, the licensee or owner shall immediately surrender the special taxicab license plates to the director of revenue and obtain new license plates as otherwise provided by law. If the licensee or owner fails to surrender the special taxicab license plate the regional taxicab commission has the authority to confiscate such plates and return them to the director of revenue.

4. The director of the department of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

67.1818. LICENSURE, TAXICAB CODE TO INCLUDE ADMINISTRATIVE PROCEDURES. — The commission shall establish as part of the taxicab code its own internal, administrative procedure for decisions involving the granting, denying, suspending, or revoking of licenses, or the imposition of administrative penalties not to exceed two hundred dollars, and shall develop a schedule of penalties which shall be available to the public and provided to all owners and operators of taxicabs. The commission shall study and take into account rate and fee structures as well as the number of existing taxicab licenses within the district in considering new applications for such licenses. The internal procedures set forth in the taxicab code shall allow appeals from license-related decisions to be conducted by independent hearing officers.

67.1819. BACKGROUND CHECKS REQUIRED, WHEN — PAYMENT OF FEE. — 1. The commission with the passage of a taxicab code shall request a Missouri criminal record review for a prospective or current driver from the central repository by furnishing information on forms and in the manner approved by the highway patrol.

2. The prospective or current driver shall submit two sets of fingerprints to the Missouri state highway patrol, Missouri criminal records repository, for the purpose of checking the person's criminal history. The first set of fingerprints shall be used to search the Missouri criminal records repository and the second set shall be submitted to the Federal Bureau of Investigation to be used for searching the federal criminal history files.

3. The prospective or current driver shall pay the appropriate fee to the state central repository payable to the criminal record system fund and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when applying for or renewing a license.

4. Any criminal history information received by the commission pursuant to the provisions of this section shall be used solely for the internal purposes of the commission in determining the suitability of the prospective or current driver. The dissemination of criminal history information from the Federal Bureau of Investigation beyond the authorized or related governmental entity is prohibited. All criminal record check information shall be confidential and any person who discloses the information beyond the scope allowed is guilty of a class A misdemeanor.

137.298. CITIES MAY PASS ORDINANCE TO INCLUDE CHARGES FOR OUTSTANDING PARKING TICKETS ON PERSONAL PROPERTY TAX BILL — PERSONAL PROPERTY TAX RECEIPT, ISSUED WHEN — CITIES MAY ENTER INTO AGREEMENTS WITH COUNTY TO INCLUDE OUTSTANDING VEHICLE-RELATED FEES AND FINES ON PERSONAL PROPERTY TAX BILL. — 1. Other provisions of law to the contrary notwithstanding, any city may by ordinance include as a charge on bills issued for personal property taxes any outstanding parking violations issued on any vehicle for which personal property tax is to be paid and, if required by ordinance, such charge shall be collected with and in the same payment as personal property taxes are collected by the collector of revenue of such city. No personal property tax bill shall be considered paid unless all charges for parking violations are also paid in full and the collector of revenue shall not issue a paid personal property receipt until all such charges are paid.

2. Any city or city not within a county may enter into a contract or cooperative agreement with the county governing body and county collector of any county with a charter form of government or any county of the first classification to include as a charge on bills issued for personal property taxes any outstanding vehicle-related fees and fines, including traffic violations, assessed or issued on any vehicle for which personal property tax is to be paid. If the outstanding vehicle-related fees and fines are against a car that is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time the fees or fines are assessed, the rental or leasing company may rebut the presumption by providing the county governing body and county collector a copy of the rental or lease agreement in effect at the time the fees or fines were assessed. A rental or leasing company shall not be charged for these fees or fines under this subsection unless prior written notice of the fees or fines have been given to that rental or leasing company by ordinary mail at the address appearing on the registration and the rental or leasing company has failed to provide the rental or lease agreement copy within fifteen days of receipt of such notice. For the purpose of this section, vehicle-related fees and fines shall include, but not be limited to, traffic violation fines, parking violation fines, towing and vehicle immobilization fees, and any late payment penalties and court costs associated with adjudication or collection of those fines. No personal property tax bill shall be considered paid unless all charges for parking violations and other vehicle-related fees and fines are also paid in full, and the county collector shall not issue a paid personal

property tax receipt until all such charges are paid. Any contract or cooperative agreement shall be in writing, signed by the city, county governing body, and county collector, and shall set forth the provisions and terms agreed to by the parties.

144.025. TRANSACTIONS INVOLVING TRADE-IN OR REBATE, HOW COMPUTED — EXCEPTIONS — DEFINITIONS — AGRICULTURAL USE, ALLOWANCE. — 1. Notwithstanding any other provisions of law to the contrary, in any retail sale other than retail sales governed by subsections 4 and 5 of this section, where any article on which sales or use tax has been paid, credited, or otherwise satisfied or which was exempted or excluded from sales or use tax is taken in trade as a credit or part payment on the purchase price of the article being sold, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the actual allowance made for the article traded in or exchanged, if there is a bill of sale or other record showing the actual allowance made for the article traded in or exchanged. [Where the article being traded in for credit or part payment is a motor vehicle, trailer, boat, or outboard motor the person trading in the article must be the owner or holder of a properly assigned certificate of ownership.] Where the purchaser of a motor vehicle, trailer, boat or outboard motor receives a rebate from the seller or manufacturer, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the amount of the rebate, if there is a bill of sale or other record showing the actual rebate given by the seller or manufacturer. Where the trade-in or exchange allowance plus any applicable rebate exceeds the purchase price of the purchased article there shall be no sales or use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard motors sold by the owner or holder of the properly assigned certificate of ownership if the seller purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within one hundred eighty days before or after the date of the sale of the original article and a notarized bill of sale showing the paid sale price is presented to the department of revenue at the time of licensing. A copy of the bill of sale shall be left with the licensing office. Where the subsequent motor vehicle, trailer, boat, or outboard motor is titled more than one hundred eighty days after the sale of the original motor vehicle, trailer, boat, or outboard motor, the allowance pursuant to this section shall be made if the person titling such article establishes that the purchase or contract to purchase was finalized prior to the expiration of the one hundred eighty-day period.

2. As used in this section, the term "boat" includes all motorboats and vessels, as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

3. As used in this section, the term "motor vehicle" includes motor vehicles as defined in section 301.010, RSMo, recreational vehicles as defined in section 700.010, RSMo, or a combination of a truck as defined in section 301.010, RSMo, and a trailer as defined in section 301.010, RSMo.

4. The provisions of subsection 1 of this section shall not apply to retail sales of manufactured homes in which the purchaser receives a document known as the "Manufacturer's Statement of Origin" for purposes of obtaining a title to the manufactured home from the department of revenue of this state or from the appropriate agency or officer of any other state.

5. Any purchaser of a motor vehicle or trailer used for agricultural use by the purchaser shall be allowed to use as an allowance to offset the sales and use tax liability towards the purchase of the motor vehicle or trailer any grain or livestock produced or raised by the purchaser. The director of revenue may prescribe forms for compliance with this subsection.

226.030. NUMBER OF MEMBERS — QUALIFICATIONS — TERM — REMOVAL — COMPENSATION. — 1. The [state] highways and transportation commission shall consist of six members, who shall be appointed by the governor, by and with the advice and consent of the senate, not more than three thereof to be members of the same political party. Each commissioner shall be a taxpayer and resident of state for at least five years prior to his

appointment. Any commissioner may be removed by the governor if fully satisfied of his inefficiency, neglect of duty, or misconduct in office. Commissioners appointed pursuant to this section shall be appointed for terms of six years, **except as otherwise provided in this subsection.** Upon the expiration of each of the foregoing terms of these commissioners a successor shall be appointed for a term of six years or until his successor is appointed and qualified which term of six years shall thereafter be the length of term of each member of the commission unless removed as above provided. The members of the commission shall receive as compensation for their services twenty-five dollars per day for the time spent in the performance of their official duties, and also their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. Members whose terms otherwise expire December 1, 2003, shall serve with terms expiring March 1, 2004, and new members or the members reappointed shall be appointed for terms expiring March 1, 2005; a member whose term otherwise expires December 1, 2005, shall serve with a term expiring March 1, 2007; a member whose term otherwise expires December 1, 2007, shall serve with a term expiring March 1, 2009; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2007; and one member whose term otherwise expires October 13, 2007, shall serve with a term expiring March 1, 2009. If a vacancy occurs in any term of a commissioner due to death, resignation, or removal, a successor shall be appointed for only the remainder of the unexpired term.

2. [Beginning August 28, 2003, when two members of the state highways and transportation commission are within two years of expiration of their terms, the commission shall appoint one of those two members as chair of the commission and the other as vice chair, each to serve in such position for one year. At the end of such year, the member currently serving as chair shall then serve as vice chair, and the member currently serving as vice chair shall serve as chair, each to serve in such position for one year] **The two members of the commission, one each from opposing political parties, who have the most seniority in commission service shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for terms ending March 1, 2005. The commission shall elect one of the members as chair and the other as vice chair. Effective March 1, 2005, the commission shall elect the two members of the commission, one from each opposing political party who has the most seniority in commission service, who shall serve as commission leadership with one member as chair and the other member as vice chair, respectively, for one year. At the end of such year, the member currently serving as chair shall then serve as vice chair, and the member currently serving as vice chair shall serve as chair, each to serve in such position for one year. Thereafter, commission leadership shall continue to rotate accordingly with the two members from opposing political parties who have the most seniority in terms of commission service being elected by the commission to serve as commission leadership. If one of the commission leadership offices becomes vacant due to death, resignation, removal, or refuses to serve before the one-year leadership term expires, the commission shall elect one of its members that is of the same political party as the vacating officer to serve the remainder of the vacating officer's leadership term. Such election shall not prohibit that member from later serving as chair and vice chair when such member's seniority in commission service qualifies him or her for those offices as provided in this subsection.**

3. No more than one-half of the members of the [state highways and transportation] commission shall be of the same political party. The selection and removal of all employees of the department of [highways and] transportation shall be without regard to political affiliation.

4. The present members of the [state highways and transportation] commission shall **continue to** serve as members of the [state highways and transportation] commission for the remainder of the terms for which they were appointed, except as provided in subsection 1 of this section.

5. The director of the department of transportation shall, by February fifteenth of each year, present an annual state of the state of transportation to a joint session of the general assembly. The six members of the [state highways and transportation] commission shall be present and available at such presentations for questions by members. The transportation inspector general may also be present and report to the general assembly on any matter of concern within his or her statutory authority. The provisions of this subsection shall expire August 28, 2008.

6. Any member reappointed shall only be eligible to serve as chair or vice-chair during the final two years of such member's reappointment.

226.060. AUTHORIZED TO SELECT CHIEF LEGAL COUNSEL — SALARY AND QUALIFICATIONS — ASSISTANT ATTORNEYS, HOW APPOINTED. — 1. The [state highways and transportation commission] **director of the Missouri department of transportation, with the consent of the highways and transportation commission,** shall select and fix the salary of a chief counsel who shall possess the same qualifications as judges of the supreme court and who shall serve at the pleasure of the [commission] **director** and shall appear for and represent the commission in all actions and proceedings under chapters 226 and 227, RSMo, or any other law administered by the commission, or in any decision, order or proceeding of the commission, or of the director and shall commence, prosecute or defend all actions or proceedings authorized or requested by the commission or to which the commission is a party and shall advise the commission or the director, when requested, in all matters in connection with the organization, powers and duties of the commission or the powers and duties of the director.

2. The chief counsel shall, with the consent of the [commission] **director**, appoint such assistant attorneys as the [commission] **director** may deem necessary and their salaries shall be fixed by the [commission] **director**. The chief counsel's office [of the commission] shall be furnished offices in the department of transportation building.

3. Nothing in this subsection shall be construed to conflict with the duties of the chief counsel as established in subsection 1 of this section. The chief counsel, or assistant attorneys designated by the chief counsel, shall render legal opinions and advise the commission and director on any matter required by the commission or the director. The commission, or an individual commissioner or commissioners, may request legal opinions or advice from the chief counsel pursuant to subsection 1 of this section and the chief counsel or an assistant attorney designated by the chief counsel shall provide such opinion or advice directly to the commission or individual commissioners making the request.

226.092. COMMISSION MAY PROVIDE AUTOMOBILE LIABILITY INSURANCE WHEN — SELF-INSURED AND PARTIAL SELF-INSURED PLANS, WHEN. — The state highways and transportation commission is authorized, when considered by it to be in the public interest, to provide [as part compensation to the employee involved,] liability insurance covering the operation of [state-owned vehicles involved in the performance of operations of the] **all motor vehicles and equipment, including airplanes and boats, owned, leased, rented, or operated pursuant to commission authorization and used in the performance of official commission or department business.** The commission is authorized to provide such insurance coverage for [its employees] **all authorized operators, as determined by the commission,** and the commission's liability by a plan of self-insurance or by a plan partially self-insured and partially insured by a contract of insurance with an insurance **with an insurance company or by a plan fully insured by a contract of insurance** company as the commission deems to be in the public interest. If the commission provides for a plan of self-insurance or partial self-insurance, it shall annually determine the amount of contribution to the plan required to pay all accrued and anticipated claims and the cost of administering the plan and shall include such amount in its budget request for contribution to the [highways and transportation commission automobile liability insurance] **commission's self-insurance** plan. The commission may contract for the services of such actuaries, consultants, and claims administrators as it deems necessary for the

effective administration of a [self-insured automobile liability] **self-insurance** plan and is authorized to contract for excess insurance coverage with an insurance company authorized to write such coverage in this state. The immunity in tort actions of the state and the [state highways and transportation commission] shall not be in any way affected by this section.

227.120. COMMISSION EMPOWERED TO PURCHASE OR LEASE LANDS TO EXERCISE RIGHT OF EMINENT DOMAIN — RESTRICTION OF OR LOSS OF ACCESS TO BE CONSIDERED.

— **1.** The state highways and transportation commission shall have power to purchase, lease, or condemn, lands in the name of the state of Missouri for the following purposes when necessary for the proper and economical construction and maintenance of state highways:

(1) Acquiring the right-of-way for the location, construction, reconstruction, widening, improvement or maintenance of any state highway or any part thereof;

(2) Acquiring bridges or sites therefor and ferries, including the rights and franchises for the maintenance and operation thereof, over navigable streams, at such places as the state highways and transportation commission shall have authority to construct, acquire or contribute to the cost of construction of any bridge;

(3) Acquiring the right-of-way for the location, construction, reconstruction, widening, improvement or maintenance of any highway ordered built by the bureau of public roads of the Department of Agriculture of the United States government;

(4) Obtaining road building or road maintenance materials or plants for the manufacture or production of such materials and acquiring the right-of-way thereto; also acquiring the right-of-way to such plants as are privately owned when necessary for the proper and economical construction of the state highway system;

(5) Changing gradients in any state highway;

(6) Establishing detours in connection with the location, construction, reconstruction, widening, improvement or maintenance of any state highway or any part thereof;

(7) Changing the channels of any stream and providing for drainage ditches when necessary for the proper construction or maintenance of any state highway;

(8) Eliminating grade crossings;

(9) Acquiring water supply and water power sites and necessary lands for use in connection therewith, including rights-of-way to any such sites;

(10) Acquiring sites for garages and division offices and for storing materials, machinery and supplies;

(11) Acquiring lands for sight distances along any state highway or any portion thereof whenever necessary, and also acquiring lands within wyes formed by junctions of state highways, or junctions of state highways and other public highways;

(12) Acquiring lands or interests therein for the purpose of depositing thereon excess excavated, or other materials produced in the construction, reconstruction, widening, improvement or maintenance of any state highway;

(13) Acquiring lands for any other purpose necessary for the proper and economical construction of the state highway system for which the commission may have authority granted by law. If condemnation becomes necessary, the commission shall have the power to proceed to condemn such lands in the name of the state of Missouri, in accordance with the provisions of chapter 523, RSMo, insofar as the same is applicable to the said state highways and transportation commission, and the court or jury shall take into consideration the benefits to be derived by the owner, as well as the damage sustained thereby. The state highways and transportation commission also shall have the same authority to enter upon private lands to survey and determine the most advantageous route of any state highway as granted, under section 388.210, RSMo, to railroad corporations.

2. In any case in which the commission exercises eminent domain involving a taking of real estate, the court, commissioners, and jury shall consider the restriction of or loss of access to any adjacent highway as an element in assessing the damages. As used in this

subsection, "restriction of or loss of access" includes, but is not limited to, the prohibition of making right or left turns into or out of the real estate involved, provided that such access was present before the proposed improvement or taking.

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of [six hundred] **one thousand** pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator **or with a seat designed to carry more than one person**, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation"[.]:

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) **The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or**

(c) **The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;**

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of [twenty-five] **fifty** miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and [is not] **when** operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, **such vehicle shall not exceed the weight limits of section 304.180, RSMo**, does not have more than four axles, and does not pull a trailer which has more than two axles. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) **"Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one**

axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, RSMo, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220, RSMo;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

[(28)] (29) "Log truck", a vehicle which is not a local log truck or **local log truck tractor** and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

[(29)] (30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

[(30)] (31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

[(31)] (32) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

[(32)] (33) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

[(33)] (34) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

[(34)] (35) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

[(35)] (36) "Motorcycle", a motor vehicle operated on two wheels;

[(36)] (37) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

[(37)] (38) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

[(38)] (39) "Municipality", any city, town or village, whether incorporated or not;

[(39)] (40) "Nonresident", a resident of a state or country other than the state of Missouri;

[(40)] (41) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

[(41)] (42) "Operator", any person who operates or drives a motor vehicle;

[(42)] (43) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

[(43)] **(44)** "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

[(44)] **(45)** "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

[(45)] **(46)** "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

[(46)] **(47)** "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

[(47)] **(48)** "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

[(48)] **(49)** "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination;

[(49)] **(50)** "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

[(50)] **(51)** "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which[.];

(a) Has been damaged to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds seventy-five percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it[, or];

(c) Has been declared salvage by an insurance company as a result of settlement of a claim for loss due to damage or theft; [or

A vehicle,] **(d)** Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

[(51)] **(52)** "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

[(52)] **(53)** "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

[(53)] **(54)** "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

[(54)] **(55)** "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term "specially constructed motor vehicle" includes kit vehicles;

[(55)] **(56)** "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

[(56)] **(57)** "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

[(57)] **(58)** "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

[(58)] **(59)** "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

[(59)] **(60)** "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

[(60)] **(61)** "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

[(61)] **(62)** "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

[(62)] **(63)** "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

[(63)] **(64)** "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition

of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

[(64)] **(65)** "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

[(65)] **(66)** "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

[(66)] **(67)** "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.020. APPLICATION FOR REGISTRATION OF MOTOR VEHICLES, CONTENTS — CERTAIN VEHICLES, SPECIAL PROVISIONS — PENALTY FOR FAILURE TO COMPLY — OPTIONAL BLINDNESS ASSISTANCE DONATION — DONATION TO ORGAN DONOR PROGRAM PERMITTED. — 1. Every owner of a motor vehicle or trailer, which shall be operated or driven upon the highways of this state, except as herein otherwise expressly provided, shall annually file, by mail or otherwise, in the office of the director of revenue, an application for registration on a blank to be furnished by the director of revenue for that purpose containing:

(1) A brief description of the motor vehicle or trailer to be registered, including the name of the manufacturer, the vehicle identification number, the amount of motive power of the motor vehicle, stated in figures of horsepower and whether the motor vehicle is to be registered as a motor vehicle primarily for business use as defined in section 301.010;

(2) The name, the applicant's identification number and address of the owner of such motor vehicle or trailer;

(3) The gross weight of the vehicle and the desired load in pounds if the vehicle is a commercial motor vehicle or trailer.

2. If the vehicle is a motor vehicle primarily for business use as defined in section 301.010 and if such vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This section shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1989; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

3. If the vehicle is any motor vehicle other than a motor vehicle primarily for business use, a recreational motor vehicle, motorcycle, motortricycle, bus or any commercial motor vehicle licensed for over twelve thousand pounds and if such motor vehicle is five years of age or less, the director of revenue shall retain the odometer information provided in the vehicle inspection report, and provide for prompt access to such information, together with the vehicle identification number for the motor vehicle to which such information pertains, for a period of five years after the receipt of such information. This subsection shall not apply unless:

(1) The application for the vehicle's certificate of ownership was submitted after July 1, 1990; and

(2) The certificate was issued pursuant to a manufacturer's statement of origin.

4. If the vehicle qualifies as a reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, non-USA-std motor vehicle, as defined in section 301.010, **or prior salvage as referenced in section 301.573**, the owner or lienholder shall surrender the certificate of ownership. The owner shall make an application for a new certificate of ownership, pay the required title fee, and obtain the vehicle examination certificate required pursuant to section 301.190. Notarized bills of sale along with a copy of the front and back of the certificate of ownership for all major component parts installed on the vehicle and invoices for all essential parts which are not defined as major component parts shall accompany the application for a new certificate of ownership. If the vehicle is a specially constructed motor vehicle, as defined in section 301.010, two pictures of the vehicle shall be submitted with the application. If the vehicle is a kit vehicle, the applicant shall submit the invoice and the manufacturer's statement of origin on the kit. If the vehicle requires the issuance of a special number by the director of revenue or a replacement vehicle identification number, the applicant shall submit the required application and application fee. All applications required under this subsection shall be submitted with any applicable taxes which may be due on the purchase of the vehicle or parts. The director of revenue shall appropriately designate "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Non-USA-Std Motor Vehicle", or "Specially Constructed Motor Vehicle" on the current and all subsequent issues of the certificate of ownership of such vehicle.

5. Every insurance company which pays a claim for repair of a motor vehicle which as the result of such repairs becomes a reconstructed motor vehicle as defined in section 301.010 **or which pays a claim on a salvage vehicle as defined in section 301.010 and the insured is retaining ownership of the vehicle**, shall in writing notify the claimant, if he is the owner of the vehicle, and the lienholder if a lien is in effect, that he is required to surrender the certificate of ownership, and the documents and fees required pursuant to subsection [3] **4** of this section[,] **to obtain a reconstructed motor vehicle certificate of ownership or documents and fees as otherwise required by law to obtain a salvage certificate of ownership, from** the director of revenue. The insurance company shall within thirty days of the payment of such claims report to the director of revenue the name and address of such claimant, the year, make, model, vehicle identification number, and license plate number of the vehicle, and the date of loss and payment.

6. Anyone who fails to comply with the requirements of this section shall be guilty of a class B misdemeanor.

7. An applicant for registration may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one-dollar donation prescribed in this subsection.

8. An applicant for registration may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund as established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for registration at the time of issuance or renewal. The director shall inquire of each applicant at the time the applicant presents the completed application to the director whether the applicant is interested in making the one-dollar donation prescribed in this subsection.

301.025. PERSONAL PROPERTY TAXES AND FEDERAL HEAVY VEHICLE USE TAX, PAID WHEN — TAX RECEIPT FORMS — FAILURE TO PAY PERSONAL PROPERTY TAX, EFFECT OF, NOTIFICATION REQUIREMENTS, REINSTATEMENT FEE, APPEALS — RULEMAKING, PROCEDURE. — 1. No state registration license to operate any motor vehicle in this state shall be issued unless the application for license of a motor vehicle or trailer is accompanied by a tax receipt for the tax year which immediately precedes the year in which the vehicle's or trailer's registration is due and which reflects that all taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township collector of the county or township in which the applicant's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant or that no such taxes were due or, if the applicant is not a resident of this state and serving in the armed forces of the United States, the application is accompanied by a leave and earnings statement from such person verifying such status. In the event the registration is a renewal of a registration made two or three years previously, the application shall be accompanied by proof that taxes were not due or have been paid for the two or three years which immediately precede the year in which the motor vehicle's or trailer's registration is due. The county or township collector shall not be required to issue a receipt for the immediately preceding tax year until all personal property taxes, including all delinquent taxes currently due, are paid. If the applicant was a resident of another county of this state in the applicable preceding years, he or she must submit to the collector in the county or township of residence proof that the personal property tax was paid in the applicable tax years. Every county and township collector shall give each person a tax receipt or a certified statement of tangible personal property taxes paid. The receipt issued by the county collector in any county of the first classification with a charter form of government which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand inhabitants which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any county of the first classification without a charter form of government with a population of at least one hundred ten thousand but less than one hundred fifty thousand inhabitants shall be determined null and void if the person paying tangible personal property taxes issues or passes a check or other similar sight order which is returned to the collector because the account upon which the check or order was drawn was closed or did not have sufficient funds at the time of presentation for payment by the collector to meet the face amount of the check or order. The collector may assess and collect in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order whichever amount is greater to be deposited in the county general revenue fund, but in no event shall such penalty imposed exceed one hundred dollars. The collector may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the collector unless the remittance is in the form of a cashier's check, certified check or money order. If a person does not comply with the provisions of this section, a tax receipt issued pursuant to this section is null and void and no state registration license shall be issued or renewed. Where no such taxes are due each such collector shall, upon request, certify such fact and transmit such statement to the person making the request. Each receipt or statement shall describe by type the total number of motor vehicles on which personal property taxes were paid, and no renewal of any state registration license shall be issued to any person for a number greater than that shown on his or her tax receipt or statement except for a vehicle which was purchased without another vehicle being traded therefor, or for a vehicle previously registered in another state, provided the application for title or other evidence shows that the date the vehicle was purchased or was first registered in this state was such that no personal property tax was owed on such vehicle as of the date of the last tax receipt or certified statement prior to the renewal. The director of revenue

shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms. If electronic data is not available, residents of counties with a township form of government and with township collectors shall present personal property tax receipts which have been paid for the preceding two years when registering under this section.

2. Every county collector in counties with a population of over six hundred thousand and less than nine hundred thousand shall give priority to issuing tax receipts or certified statements pursuant to this section for any person whose motor vehicle registration expires in January. Such collector shall send tax receipts or certified statements for personal property taxes for the previous year within three days to any person who pays the person's personal property tax in person, and within twenty working days, if the payment is made by mail. Any person wishing to have priority pursuant to this subsection shall notify the collector at the time of payment of the property taxes that a motor vehicle registration expires in January. Any person purchasing a new vehicle in December and licensing such vehicle in January of the following year, may use the personal property tax receipt of the prior year as proof of payment.

3. In addition to all other requirements, the director of revenue shall not register any vehicle subject to the heavy vehicle use tax imposed by Section 4481 of the Internal Revenue Code of 1954 unless the applicant presents proof of payment, or that such tax is not owing, in such form as may be prescribed by the United States Secretary of the Treasury. No proof of payment of such tax shall be required by the director until the form for proof of payment has been prescribed by the Secretary of the Treasury.

4. Beginning July 1, 2000, a county or township collector may notify, by ordinary mail, any owner of a motor vehicle for which personal property taxes have not been paid that if full payment is not received within thirty days the collector may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the collector by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. Thereafter, if the owner fails to timely pay such taxes the collector may notify the director of revenue of such failure. Such notification shall be on forms designed and provided by the department of revenue and shall list the motor vehicle owner's full name, including middle initial, the owner's address, and the year, make, model and vehicle identification number of such motor vehicle. Upon receipt of this notification the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in effect until the department of revenue receives notification from a county or township collector that the personal property taxes have been paid in full. Upon the owner furnishing proof of payment of such taxes and paying a twenty dollar reinstatement fee to the director of revenue the motor vehicle or vehicles registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of personal property tax the owner so aggrieved may appeal to the circuit court of the county of his or her residence for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

5. **Beginning July 1, 2005, a city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify, by ordinary mail, any owner of a motor vehicle who is delinquent in payment of vehicle-related fees and fines that if full payment is not received within thirty days, the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the**

city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. If the vehicle-related fees and fines are assessed against a car that is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time the fees or fines are assessed, the rental or leasing company may rebut the presumption by providing the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county with a copy of the rental or lease agreement in effect at the time the fees or fines were assessed. A rental or leasing company shall not be charged for fees or fines under this subsection, nor shall the registration of a vehicle be suspended, unless prior written notice of the fees or fines has been given to that rental or leasing company by ordinary mail at the address appearing on the registration and the rental or leasing company has failed to provide the rental or lease agreement copy within fifteen days of receipt of such notice. Any notification to a rental or leasing company that is returned to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. For the purpose of this section, "vehicle-related fees and fines" includes, but is not limited to, traffic violation fines, parking violation fines, vehicle towing, storage and immobilization fees, and any late payment penalties, other fees, and court costs associated with the adjudication or collection of those fines.

6. If after notification under subsection 5 of this section the vehicle owner fails to pay such vehicle-related fees and fines to the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county within thirty days from the date of such notice, the city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county may notify the director of revenue of such failure. Such notification shall be on forms or in an electronic format approved by the department of revenue and shall list the vehicle owner's full name and address, and the year, make, model, and vehicle identification number of such motor vehicle and such other information as the director shall require.

7. Upon receipt of notification under subsection 5 of this section, the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in effect until the department of revenue receives notification from a city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county that the vehicle-related fees or fines have been paid in full. Upon the owner furnishing proof of payment of such fees and fines and paying a twenty dollar reinstatement fee to the director of revenue the motor vehicle registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of vehicle-related fees or fines the owner so aggrieved may appeal to the circuit court of the county where the violation occurred for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

8. The city not within a county or any home rule city with more than four hundred thousand inhabitants and located in more than one county shall reimburse the department

of revenue for all administrative costs associated with the administration of subsections 5 to 8 of this section.

9. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

301.041. RECIPROCITY AGREEMENT, REGISTERED COMMERCIAL VEHICLES — PROCEDURES — FAILURE TO DISPLAY PLATES, PENALTY — DIRECTOR MAY PROMULGATE RULES — VALIDITY OF PREVIOUSLY ISSUED PLATES. — 1. All commercial motor vehicles and trailers registered pursuant to this section or to be operated under **reciprocity** agreements [as provided for in sections 301.271 to 301.279] shall be registered annually, **or in the discretion of the state highways and transportation commission, staggered in such manner as to be registered for a one-year period beginning on the first day of a quarter during such year and in such manner as the commission may determine by regulation. To facilitate the transition from an annual registration to a staggered registration, the commission shall inquire of all registrants as to which calendar quarter the registrant wishes to use as the beginning date of the registration once the transition to staggered registration is complete. If the registrant does not respond by the date selected by the commission, or if no quarter is selected, the registrant shall remain on a calendar year registration. The commission may issue prorated registrations pursuant to this section for periods of greater than or less than one year during the transition to a nonannual year registration, but no registration shall exceed eighteen months nor be less than six months. The commission may issue a prorated, by quarter, partial year registration at any time for additions to a fleet made after an initial registration of such fleet, or such other reasons as approved by the commission or its designee upon the request of the registrant.**

2. An application for renewal registration pursuant to this section shall be made with all required documents on or before [October first of each year] **the first day of the month that is three calendar months immediately prior to the beginning date of the registration.** Renewal applications received after [October] **the first day of the third calendar month immediately prior to the registration** shall be assessed a penalty of one hundred dollars. The [director or his or her] **commission's** designee may waive the penalty pursuant to this subsection for good cause.

3. Fees for commercial motor vehicles and trailers renewed pursuant to this section shall be paid no later than [December first of each year] **the first day of the month that is one calendar month immediately prior to the beginning date of the registration** except for payments made on an installment basis as provided in subsection 4 of this section. Renewal application fees not paid by [December first] **the first day of the month immediately prior to the registration** shall be assessed a penalty of fifty dollars per vehicle, but in no case shall such penalty exceed one hundred fifty dollars per application. The [director or his or her] **commission's** designee may, for good cause, waive or reduce any penalties assessed pursuant to this subsection.

4. Any owner of a commercial motor vehicle or trailer operated pursuant to this section or **reciprocity** agreements [provided in sections 301.271 to 301.279] may elect to pay the Missouri portion of the annual registration fee in two equal installments, except that no such installment shall be less than one hundred dollars. The first installment shall be payable on or before [December first] **the first day of the month immediately prior to the beginning date of the registration**, and the second installment shall be payable on or before [June first] **the first day**

of the sixth month of that registration [year] **one-year period**. Every owner electing to pay on an installment basis shall file [with the director of the department of revenue,] on or before [December first] **the first day of the month immediately prior to the beginning date of the registration**, a surety bond, certificate of deposit or irrevocable letter of credit as defined in section 400.5-103, RSMo, to guarantee the payment of the second installment. The bond or certificate or letter of credit shall be in an amount equal to the payment guaranteed. **The commission may require such installments be filed at other times of the year if a nonannual registration is issued pursuant to subsection 1 of this section.**

5. [If a new application for registration of a commercial vehicle or trailer is made other than as specified in subsection 1 of this section, the registration fee shall be prorated as follows:

(1) For applications made between April first and June thirtieth, the applicant shall pay three-fourths of the annual registration fee;

(2) For applications made between July first and September thirtieth, the applicant shall pay one-half of the annual registration fee; and

(3) For applications made after October first of the current registration year, the applicant shall pay one-fourth of the annual registration fee.

6.] Any applicant who fails to timely renew his or her registration with all required documents pursuant to this section or who fails to timely pay any fees and penalties owed pursuant to this section shall not be issued a temporary registration for a motor vehicle or a trailer issued pursuant to this section or under **reciprocity** agreements [as provided for in sections 301.271 and 301.279]. Nothing in this section shall prohibit the issuance of temporary registration credentials for additions to the registrant's fleet subsequent to renewal.

[7.] **6.** The applicant for registration pursuant to this section shall affix the registration plate issued [by the director] to the front of the vehicle in accordance with the provisions of section 301.130. Any vehicle required to be registered pursuant to this section shall display the plate issued to that vehicle no later than December thirty-first of each year **or the last day of the quarter preceding the quarter in which the registration begins, as applicable**. Failure to display the registration [plates] **plate** required by this section shall constitute a class A misdemeanor.

[8.] **7.** The [director of revenue] **commission** may prescribe rules and regulations for the effective administration of this section.

[9.] **8.** Any current registration or plate for which all fees have been paid for a commercial trailer previously issued pursuant to **reciprocity** agreements [provided for in sections 301.271 and 301.277] shall remain valid even if such agreements no longer require apportionment of such trailers under such agreements, and such trailers may continue to be registered pursuant to this section.

[10.] **9.** Notwithstanding any other law to the contrary, the [highway reciprocity] commission shall have the authority pursuant to this chapter to issue permanent and temporary registrations on commercial trailers whether or not the registration is issued pursuant to **reciprocity** agreements [as provided in sections 301.271 to 301.279]. The provisions of subsection 1 of section 301.190 shall not apply to registrations issued pursuant to this subsection, provided the carrier or person to whom the registration is issued has at least one tractor as defined in section 301.010 registered with the state of Missouri pursuant to this section.

[11.] **10.** Commercial trailer plates issued pursuant to this section shall in all other respects conform to and have the same requirements as those issued pursuant to subsection 3 of section 301.067. Such plates may contain the legend ["HRC TLR"] "**COMM TRL**" in preference to the words "SHOW-ME STATE".

301.069. DRIVEAWAY LICENSE PLATES, RESTRICTION ON USE — ANNUAL DRIVEAWAY LICENSE OR CHOICE OF BIENNIAL LICENSE, FEES. — A driveaway license plate may not be used on a vehicle used or operated on a highway except for the purpose of transporting vehicles in transit. Driveaway license plates may not be used by tow truck operators

transporting wrecked, disabled, abandoned, improperly parked, or burned vehicles. For each driveway license there shall be paid an annual license fee of forty-four dollars and fifty cents for one set of plates or such insignia as the director may issue which shall be attached to the motor vehicle as prescribed in this chapter. Applicants may choose to obtain biennial driveway licenses. The fee for biennial driveway licenses shall be eighty-nine dollars. For single trips the fee shall be four dollars, and descriptive insignia shall be prepared and issued at the discretion of the director who shall also prescribe the type of equipment used to attach such vehicles in combinations.

301.129. ADVISORY COMMITTEE, DUTIES, MEMBERS, PUBLIC MEETINGS, EXPENSES, DISSOLUTION OF COMMITTEE. — [There is established in this section an advisory committee for the department of revenue, which shall exist solely to develop uniform designs and common colors for motor vehicle license plates issued under this chapter and to determine appropriate license plate parameters for all license plates issued under this chapter. The advisory committee may adopt more than one type of design and color scheme for license plates issued under this chapter; however, each license plate of a distinct type shall be uniform in design and color scheme with all other license plates of that distinct type. The specifications for the fully reflective material used for the plates, as required by section 301.130, shall be determined by the committee. Such plates shall meet any specific requirements prescribed in this chapter. The advisory committee shall consist of the director of revenue, the superintendent of the highway patrol, the correctional enterprises administrator, one person appointed by the governor, one state senator appointed by the president pro tem of the senate and one state representative appointed by the speaker of the house of representatives. Prior to April 1, 1996, the committee shall meet, select a chairman from among their members, and develop uniform design and license plate parameters for the motor vehicle license plates issued under this chapter. Prior to determining the final design of the plates, the committee shall hold at least three public meetings in different areas of the state to invite public input on the final design. Members of the committee shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties under this section out of funds appropriated for that purpose. The committee shall direct the director of revenue to implement its final design of the uniform motor vehicle license plates and any specific parameters for all license plates developed by the committee not later than April 1, 1996. The committee shall be dissolved upon completion of its duties under this section.] **There is established in this section an advisory committee for the department of revenue, which shall exist solely to develop uniform designs and common colors for motor vehicle license plates issued under this chapter and to determine appropriate license plate parameters for all license plates issued under this chapter. The advisory committee may adopt more than one type of design and color scheme for license plates issued under this chapter; however, each license plate of a distinct type shall be uniform in design and color scheme with all other license plates of that distinct type. The specifications for the fully reflective material used for the plates, as required by section 301.130, shall be determined by the committee. Such plates shall meet any specific requirements prescribed in this chapter. The advisory committee shall consist of the director of revenue, the superintendent of the highway patrol, the correctional enterprises administrator, and the respective chairpersons of both the senate and house of representatives transportation committees. Notwithstanding section 226.200, RSMo, to the contrary, the general assembly may appropriate state highways and transportation department funds for the requirements of section 301.130, and this section. Prior to April 1, 2006, the committee shall meet, select a chairman from among their members, and develop uniform design and license plate parameters for the motor vehicle license plates issued under this chapter. Prior to determining the final design of the plates, the committee shall hold at least three public meetings in different areas of the state to invite public input on the final design. Members of the committee shall be reimbursed for their actual and necessary expenses incurred in the performance of their**

duties under this section out of funds appropriated for that purpose. The committee shall direct the director of revenue to implement its final design of the uniform motor vehicle license plates and any specific parameters for all license plates developed by the committee not later than April 1, 2006. The committee shall be dissolved upon completion of its duties under this section.

301.130. LICENSE PLATES, REQUIRED SLOGAN AND INFORMATION — SPECIAL PLATES — PLATES, HOW DISPLAYED — TABS TO BE USED — RULEMAKING AUTHORITY, PROCEDURE. — 1. The director of revenue, upon receipt of a proper application for registration, required fees and any other information which may be required by law, shall issue to the applicant a certificate of registration in such manner and form as the director of revenue may prescribe and a set of license plates, or other evidence of registration, as provided by this section. Each set of license plates shall bear the name or abbreviated name of this state, the words "SHOW-ME STATE", the month and year in which the registration shall expire, and an arrangement of numbers or letters, or both, as shall be assigned from year to year by the director of revenue. The plates shall also contain fully reflective material with a common color scheme and design for each type of license plate issued pursuant to this chapter. The plates shall be clearly visible at night, and shall be aesthetically attractive. Special plates for qualified disabled veterans will have the "DISABLED VETERAN" wording on the license plates in preference to the words "SHOW-ME STATE" and special plates for members of the national guard will have the "NATIONAL GUARD" wording in preference to the words "SHOW-ME STATE".

2. The arrangement of letters and numbers of license plates shall be uniform throughout each classification of registration. The director may provide for the arrangement of the numbers in groups or otherwise, and for other distinguishing marks on the plates.

3. All property-carrying commercial motor vehicles to be registered at a gross weight in excess of twelve thousand pounds, all passenger-carrying commercial motor vehicles, local transit buses, school buses, trailers, semitrailers, motorcycles, motortricycles, motorscooters and driveaway vehicles shall be registered with the director of revenue as provided for in subsection 3 of section 301.030, **or with the state highways and transportation commission as otherwise provided in this chapter**, but only one license plate shall be issued for each such vehicle except as provided in this subsection. The applicant for registration of any property-carrying commercial motor vehicle may request and be issued two license plates for such vehicle, and if such plates are issued the director of revenue may assess and collect an additional charge from the applicant in an amount not to exceed the fee prescribed for personalized license plates in subsection 1 of section 301.144.

4. The plates issued to manufacturers and dealers shall bear the letter "D" preceding the number, and the director may place upon the plates other letters or marks to distinguish commercial motor vehicles and trailers and other types of motor vehicles.

5. No motor vehicle or trailer shall be operated on any highway of this state unless it shall have displayed thereon the license plate or set of license plates issued by the director of revenue **or the state highways and transportation commission** and authorized by section 301.140. Each such plate shall be securely fastened to the motor vehicle in a manner so that all parts thereof shall be plainly visible and reasonably clean so that the reflective qualities thereof are not impaired. License plates shall be fastened to all motor vehicles except trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds on the front and rear of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up. The license plates on trailers, motorcycles, motortricycles and motorscooters shall be displayed on the rear of such vehicles, with the letters and numbers thereon right side up. The license plate on buses, other than school buses, and on trucks, tractors, truck tractors or truck-tractors licensed in excess of twelve thousand pounds shall be displayed on the front of such vehicles not less than eight nor more than forty-eight inches above the ground, with the letters and numbers thereon right side up or if two plates are issued

for the vehicle pursuant to subsection [5] **3** of this section, displayed in the same manner on the front and rear of such vehicles. The license plate or plates authorized by section 301.140, when properly attached, shall be prima facie evidence that the required fees have been paid.

6. (1) The director of revenue shall issue annually **or biennially** a tab or set of tabs **as provided by law** as evidence of the annual payment of registration fees and the current registration of a vehicle in lieu of the set of plates. **Beginning January 1, 2009, the numbers recorded on the tab or tabs must be the same numbers that appear on the license plate or plates issued by the department of revenue that are displayed on the vehicle. Such tabs shall be produced in each license bureau office.**

(2) The vehicle owner to whom a tab or set of tabs is issued shall affix and display such tab or tabs in the designated area of the license plate, no more than one per plate.

(3) A tab or set of tabs issued by the director **of revenue** when attached to a vehicle in the prescribed manner shall be prima facie evidence that the registration fee for such vehicle has been paid.

(4) Except as **otherwise** provided in [subdivision (1) of] this [subsection] **section**, the director of revenue shall issue plates for a period of at least [five] **six** years.

(5) For those commercial motor vehicles and trailers registered pursuant to section 301.041, the plate issued by the [director of revenue] **highways and transportation commission** shall be a permanent nonexpiring license plate for which no tabs shall be issued. Nothing in this section shall relieve the owner of any vehicle permanently registered pursuant to this section from the obligation to pay the annual registration fee due for the vehicle. The permanent nonexpiring license plate shall be returned to the [director of revenue] **highways and transportation commission** upon the sale or disposal of the vehicle by the owner to whom the permanent nonexpiring license plate is issued, or the plate may be transferred to a replacement commercial motor vehicle when the owner files a supplemental application with the Missouri [highway reciprocity] **highways and transportation** commission for the registration of such replacement commercial motor vehicle. Upon payment of the annual registration fee, the [director of revenue] **highways and transportation commission** shall issue a certificate of registration or other suitable evidence of payment of the annual fee, and such evidence of payment shall be carried at all times in the vehicle for which it is issued.

(6) Upon the sale or disposal of any vehicle permanently registered under this section, or upon the termination of a lease of any such vehicle, the permanent nonexpiring plate issued for such vehicle shall be returned to the [director] **highways and transportation commission** and shall not be valid for operation of such vehicle, or the plate may be transferred to a replacement vehicle when the owner files a supplemental application with the Missouri [highway reciprocity] **highways and transportation** commission for the registration of such replacement vehicle. If a vehicle which is permanently registered under this section is sold, wrecked or otherwise disposed of, or the lease terminated, the registrant shall be given credit for any unused portion of the annual registration fee when the vehicle is replaced by the purchase or lease of another vehicle during the registration year.

7. The director of revenue **and the highways and transportation commission** may prescribe rules and regulations for the effective administration of this section. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

8. Notwithstanding the provisions of any other law to the contrary, owners of motor vehicles other than apportioned motor vehicles or commercial motor vehicles licensed in excess of eighteen thousand pounds gross weight may apply for special personalized license plates. Vehicles licensed for eighteen thousand pounds that display special personalized license plates shall be subject to the provisions of subsections 1 and 2 of section 301.030.

9. Commencing January 1, 2007, the director of revenue shall cause to be reissued new license plates of such design as directed by the director consistent with the terms, conditions, and provisions of this section and this chapter. Except as otherwise provided

in this section, in addition to all other fees required by law, applicants for registration of vehicles with license plates that expire between January 1, 2007, and December 31, 2009, applicants for registration of trailers or semitrailers with license plates that expire between January 1, 2007, and December 31, 2009, and applicants for registration of vehicles that are to be issued new license plates shall pay an additional fee of up to two dollars and fifty cents, based on the actual cost of the reissuance, to cover the cost of the newly reissued plates required by this subsection. The additional fee, based on the actual cost, prescribed by this subsection shall only be one dollar and twenty-five cents for issuance of one new plate for vehicles requiring only one license plate pursuant to this section. The additional fee of two dollars and fifty cents prescribed in this subsection shall not be charged to persons receiving special license plates issued under section 301.073 or 301.443. Historic motor vehicle license plates registered pursuant to section 301.131 and specialized license plates are exempt from the provisions of this subsection.

301.132. STREET ROD AND CUSTOM VEHICLE CERTIFICATE OF TITLE — REQUIREMENTS — FEE — SAFETY INSPECTION REQUIRED — PLATES ISSUED, CONTENT — USE OF BLUE DOT TAIL LIGHTS. — 1. [Any motor vehicle manufactured in 1948 or before which is modified for safe road use, including but not limited to modifications to the drive train, suspension, brake system, and any safety or comfort apparatus and which is not owned solely as a collector's item and which is not used or intended to be used solely for exhibition and educational purposes only, may be specially registered as a "street rod" upon payment of an annual fee equal to the fee charged for personalized license plates in section 301.144 in addition to the regular annual registration fees. Upon the transfer of the title to any such vehicle the registration shall be canceled and the license plates issued therefor shall be returned to the director of revenue.

2. The owner of any such vehicle shall file an application in a form prescribed by the director, verified by affidavit, providing that such vehicle meets the requirements which shall be issued by the director for classification as a "street rod", and a certificate of registration shall be issued therefor.

3. The director shall issue to the owner of any motor vehicle registered under this section two license plates containing the number assigned to the registration certificate issued by the director of revenue, and the following words: "Street Rod", "State of Missouri". Such license plates shall be kept securely attached to the motor vehicle registered hereunder. The advisory committee established in section 301.129 shall determine the characteristic features of such license plates for vehicles registered under the provisions of this section so that they may be recognized as such, except that such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

4. Motor vehicles registered under this section are subject to the motor vehicle safety inspection requirements of sections 307.350 to 307.390, RSMo.] **For purposes of this section, "street rod" is a vehicle older than 1949 or a vehicle manufactured after 1948 to resemble a vehicle manufactured before 1949; and has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials.**

2. The model year and the year of manufacture that are listed on the certificate of title of a street rod vehicle shall be the model year and year of manufacture that the body of such vehicle resembles. The current and all subsequent certificates of ownership shall be designated with the word "REPLICA".

3. For each street rod, there shall be an annual fee equal to the fee charged for personalized license plates in section 301.144 in addition to the regular annual registration fees.

4. In applying for registration of a street rod pursuant to this section, the owner of the street rod shall submit with the application a certification that the vehicle for which the application is made:

(1) Will be maintained for occasional transportation, exhibitions, club activities, parades, tours, and similar uses;

(2) Will not be used for general daily transportation.

5. In addition to the certification required pursuant to subsection 4 of this section, when applying for registration of a street rod, the new owner of the street rod shall provide proof that the street rod passed a safety inspection in accordance with section 307.350, RSMo, that shall be approved by the department of public safety in consultation with the street rod community in this state.

6. On registration of a vehicle pursuant to this section, the director of the department of revenue shall issue to the owner two license plates containing the number assigned to the registration certificate issued by the director of revenue, and the following words: "Street Rod", "State of Missouri". Such license plates shall be kept securely attached to the motor vehicle registered pursuant to this section. The director of revenue shall determine the characteristic features of such license plates for vehicles registered pursuant to the provisions of this section so that they may be recognized as such, except that such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

7. Unless the presence of the equipment was specifically required by a statute of this state as a condition of sale in the year listed as the year of manufacture on the certificate of title, the presence of any specific equipment is not required for the operation of a vehicle registered pursuant to this section.

8. Except as provided in subsection 5 of this section, a vehicle registered pursuant to this section is exempt from any statute of this state that requires periodic vehicle inspections and from any statute of this state that requires the use and inspection of emission controls.

9. A custom vehicle means any motor vehicle that:

(1) Is at least twenty-five years old and of a model year after 1948, or was manufactured to resemble a vehicle twenty-five years old or older and of a model year after 1948; and

(2) Has been altered from the manufacturer's original design, or has an entire body constructed from nonoriginal materials.

10. The model year and the year of manufacture that are listed on the certificate of title of a custom vehicle shall be the model year and year of manufacture that the body of such vehicle resembles. The current and all subsequent certificates of ownership shall be designated with the word "REPLICA".

11. For each custom vehicle, there shall be an annual fee equal to the fee charged for personalized license plates in section 301.144 in addition to the regular annual registration fees.

12. In applying for registration of a custom vehicle pursuant to this section, the owner of the custom vehicle shall submit with the application a certification that the vehicle for which the application is made:

(1) Will be maintained for occasional transportation, exhibits, club activities, parades, tours, and similar uses; and

(2) Will not be used for general daily transportation.

13. In addition to the certification required pursuant to subsection 12 of this section, when applying for registration of a custom vehicle, the new owner of the custom vehicle shall provide proof that the custom vehicle passed a safety inspection in accordance with section 307.350, RSMo, that shall be approved by the department of public safety in consultation with the street rod community in this state.

14. On registration of a vehicle pursuant to this section, the director of the department of revenue shall issue to the owner two license plates containing the number

assigned to the registration certificate issued by the director of revenue, and the following words: "Custom Vehicle", "State of Missouri". Such license plates shall be kept securely attached to the motor vehicle registered hereunder. The director of revenue shall determine the characteristic features of such license plates for vehicles registered pursuant to the provisions of this section so that they may be recognized as such, except that such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

15. Unless the presence of the equipment was specifically required by a statute of this state as a condition of sale in the year listed as the year of manufacture on the certificate of title, the presence of any specific equipment is not required for the operation of a vehicle registered pursuant to this section.

16. Except as provided in subsection 13 of this section, a vehicle registered pursuant to this section is exempt from any statute of this state that requires periodic vehicle inspections and from any statute of this state that requires the use and inspection of emission controls.

17. For purposes of this section, "blue dot tail light" is a red lamp installed in the rear of a motor vehicle containing a blue or purple insert that is not more than one inch in diameter.

18. A street rod or custom vehicle may use blue dot tail lights for stop lamps, rear turning indicator lamps, rear hazard lamps, and rear reflectors.

301.134. DAUGHTERS OF THE AMERICAN REVOLUTION SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Daughters of the American Revolution who have obtained an emblem-use authorization statement from the Missouri State Society Daughters of the American Revolution may apply for Missouri State Society Daughters of the American Revolution license plates for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri State Society Daughters of the American Revolution hereby authorizes the use of its official emblem to be affixed on multi-year personalized license plates as provided in this section.

2. Upon application and payment of a one time twenty-five dollar emblem-use contribution to the Missouri State Society Daughters of the American Revolution, the Missouri State Society Daughters of the American Revolution shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the department of revenue at the time of registration of a motor vehicle.

3. Upon presentation of the statement and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a personalized license plate to the vehicle owner, which shall bear the emblem of the Missouri State Society Daughters of the American Revolution and the words "MISSOURI STATE SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION" and shall engrave the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. A fee for the issuance of personalized license plates issued pursuant to section 301.144, shall not be required for plates issued pursuant to this section.

4. The director of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,

RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.141. FRAUDULENT PROCUREMENT, USE, OR CERTIFICATION OF DISABLED PERSON LICENSE PLATES — PENALTY — HEALTH CARE PRACTITIONERS, FALSE PHYSICIAN'S STATEMENT, PENALTY. — 1. Fraudulent procurement or use of disabled-person license plates or windshield placards shall be a class [C] **B** misdemeanor. [It is a class C misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice.]

2. Any physician or other health care practitioner authorized to issue a physician's statement or certificate to enable persons to obtain disabled license plates or windshield hanging placards pursuant to section 301.142, who issues, signs, or furnishes such statement or certificate to any person who does not meet one or more of the conditions set forth in subsection 1 of section 301.142, if there is no basis for the diagnosis given, or who issues, signs, or furnishes such statement for a condition, the diagnosis of which is outside the scope of such health care provider's license, is guilty of a class **B** misdemeanor.

301.142. PHYSICALLY DISABLED, TEMPORARILY DISABLED, DEFINED — PLATES FOR DISABLED AND PLACARD FOR WINDSHIELD, ISSUED WHEN — PHYSICIAN STATEMENTS, REQUIREMENTS — DEATH OF DISABLED PERSON, EFFECT — LOST OR STOLEN PLACARD, REPLACEMENT OF, FEE — RECERTIFICATION AND REVIEW BY DIRECTOR, WHEN — PENALTIES FOR CERTAIN FRAUDULENT ACTS. — 1. As used in [this section the term] **sections 301.141 to 301.143, the following terms mean:**

(1) "Department", the department of revenue;
(2) "Director", the director of the department of revenue;
(3) "Other authorized health care practitioner", includes only chiropractors licensed pursuant to chapter 331, RSMo, podiatrists licensed pursuant to chapter 330, RSMo, and optometrists licensed pursuant to chapter 336, RSMo;

(4) "Physically disabled" [means], a natural person who is [a] blind [person], as defined in section 8.700, RSMo, or a natural person with **medical** disabilities which [limit or impair the] **prohibits, limits, or severely impairs one's ability to ambulate or** walk, as determined by a licensed physician **or other authorized health care practitioner** as follows:

[(1)] (a) The person cannot **ambulate or** walk fifty or less feet without stopping to rest due to a severe and disabling, arthritic, neurological, [or] orthopedic condition, **or other severe and disabling condition;** or

[(2)] (b) The person cannot **ambulate or** walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

[(3)] (c) Is restricted by [lung] **a respiratory or other** disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

[(4)] (d) Uses portable oxygen; or

[(5)] (e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

[(6)] Is severely limited in the applicant's ability to walk due to an arthritic, neurological, or orthopedic condition.]

(f) A person's age, in and of itself, shall not be a factor in determining whether such person is "physically disabled" or is otherwise entitled to disabled license plates and/or disabled windshield hanging placards within the meaning of sections 301.141 to 301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334, RSMo;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies that a person is disabled as defined in this section;

[2.] (7) "Temporarily disabled person" [means], a [physically] disabled person as defined in this section whose disability or incapacity [can be] is expected to last [for not] no more than one hundred eighty days.

[3.] 2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

(1) Be on a form prescribed by the director of revenue;

(2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;

(3) Include the physician's or other authorized health care practitioner's license number; and

(4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement, that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days. If the physician or health care practitioner fails to record an expiration date on the physician's statement, the director shall issue a temporary windshield placard for a period of thirty days.

5. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists.

6. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board, in order to verify compliance with this section. Information contained within such records shall be confidential unless required for prosecution, disciplinary purposes, or otherwise required to be disclosed by law.

7. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to **primarily** transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, **a current physician's statement which has been issued within ninety days preceding the date the application is made** and [by] **proof of compliance with the** state motor vehicle laws relating to registration and licensing of motor vehicles shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "disabled" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. [Handicapped parking places may only be used when a physically disabled occupant is in the

motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person. No vehicle shall park in the access aisle. Such parking violation shall be an infraction. The use of a vehicle displaying a disabled license plate or windshield placard to park in a parking space designated for the disabled by a person not transporting the individual for whom the license or placard was issued shall be an infraction. Upon conviction thereof, violators shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars.

4.] **8. The director shall further issue, upon request, to such applicant one, and for good cause shown, as the director may define by rule and regulations, not more than two, removable disabled windshield hanging placards for use when the disabled person is occupying a vehicle or when a vehicle not bearing the permanent handicap plate is being used to pick up, deliver, or collect the physically disabled person issued the disabled motor vehicle license plate or disabled windshield hanging placard.**

9. No additional fee shall be paid to the director [of revenue] for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "disabled" as prescribed in [subsection 3 of] this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

[5.] **10. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard. [to] The placard may be used in motor vehicles which do not bear the permanent handicap symbol on the license plate. Such placards must be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. These placards may only be used during the period of time when the vehicle is being used by a disabled person, or when the vehicle is being used to pick up, deliver, or collect a disabled person.** When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

11. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for each removable windshield placard shall be four dollars and the removable windshield placard shall be renewed every two years. The director may stagger the expiration dates to equalize workload. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard [shall] may be issued to an applicant who has not been issued disabled person license plates, at the appropriate fee.

12. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, and for good cause shown, one additional temporary windshield placard [shall] may be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a

temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to [subsection 6 of] this section is supplied to the director of revenue at the time of renewal. [The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when a physically disabled occupant is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected by a properly marked vehicle which is parked for the sole use of the physically disabled person.

6.] **13.** Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician **or other authorized health care practitioner** which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section. [The physician's statement shall be on a form prescribed by the director of revenue which shall include the physician's license number. If it is the professional opinion of the physician who issues the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, this shall be noted on the statement. In such instances, the applicant shall present the physician's statement which states that the applicant's disability is permanent to the director of revenue the first time the applicant applies for license plates or a removable windshield placard. The applicant shall not be required to obtain a new physician's statement each time that the applicant applies for or renews license plates or a removable windshield placard; but, the applicant shall present a physician's statement each time the applicant applies for a temporary windshield placard or renews a temporary windshield placard.]

14. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when the physically disabled occupant for whom the disabled plate or placard was issued is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected. A disabled license plate and/or a removable windshield hanging placard are not transferable and may not be used by any other person whether disabled or not.

15. At the time the disabled plates or windshield hanging placards are issued, the director shall issue a registration certificate which shall include the applicant's name, address, and other identifying information as prescribed by the director, or if issued to an agency, such agency's name and address. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. The validated registration receipt given to the applicant shall serve as the registration certificate.

16. The director shall, upon issuing any disabled registration certificate for license plates and/or windshield hanging placards, provide information which explains that such plates or windshield hanging placards are nontransferable, and the restrictions explaining who and when a person or vehicle which bears or has the disabled plates or windshield hanging placards may be used or be parked in a disabled reserved parking space, and the penalties prescribed for violations of the provisions of this act.

17. Every new applicant for a disabled license plate or placard shall be required to present a new physician's statement dated no more than ninety days prior to such application. Renewal applicants will be required to submit a physician's statement dated no more than ninety days prior to such application upon their first renewal occurring on or after August 1, 2005. Upon completing subsequent renewal applications, a physician's statement dated no more than ninety days prior to such application shall be required every fourth year. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days.

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law.

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director [may] **shall**, in cooperation with the boards which shall assist the director, establish a list of all [physicians' names] **Missouri physicians and other authorized health care practitioners** and of any other information necessary to administer this [subsection within the department of revenue if the director determines that such listing is necessary to carry out the provisions of this subsection] **section**.

[7.] 20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit [an affidavit] **a statement** stating this fact, in addition to the physician's statement. The [affidavit] **statement** shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this [affidavit] **statement** with each application for license plates. **No person shall willingly or knowingly submit a false statement and any such false statement shall be considered perjury and may be punishable pursuant to section 301.420, RSMo.**

21. **The director of revenue shall retain all physician's statements and all other documents received in connection with a person's application for disabled license plates and/or disabled windshield placards.**

[8.] 22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons.

[9.] 23. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of [such person] **the decedent or such other person who may come into or otherwise take possession, of the disabled license plates or disabled windshield placard** shall return [the plates or placards or both] the same to the director of revenue under penalty of law. **Failure to return such plates or placards shall constitute a class B misdemeanor.**

24. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

25. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

[10.] 26. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be [two] **four** dollars.

[11. Beginning after September 1, 1998, and prior to August 31, 1999, the director of revenue shall authorize a one-time recertification and review of all permanent disabled person license plates and windshield placards, including physician's license numbers and related information that the director has on file pursuant to subsection 6 of this section to determine if such numbers and information are current and correct. The director shall require the presentation of a new physician's statement and other information deemed necessary by the director to

administer the provisions of this section. The recertification and review shall be conducted in a manner as determined by the director.

12.] **27.** Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B misdemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

301.143. PARKING SPACE FOR PHYSICALLY DISABLED MAY BE ESTABLISHED BY POLITICAL SUBDIVISIONS AND OTHERS, SIGNS — VIOLATIONS — ENFORCEMENT — PENALTY. — 1. As used in this section, the term "vehicle" shall have the same meaning given it in section 301.010, and the term "physically disabled" shall have the same meaning given it in section 301.142.

2. Political subdivisions of the state may by ordinance or resolution designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Owners of private property used for public parking shall also designate parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142. Whenever a political subdivision or owner of private property so designates a parking space, the space shall be indicated by a sign upon which shall be inscribed the international symbol of accessibility and shall also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. The sign described in this subsection shall also state, or an additional sign shall be posted below or adjacent to the sign stating, the following: "\$50 to \$300 fine."

3. Any political subdivision, by ordinance or resolution, and any person or corporation in lawful possession of a public off-street parking facility or any other owner of private property may designate reserved parking spaces for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 as close as possible to the nearest accessible entrance. Such designation shall be made by posting immediately adjacent to, and visible from, each space, a sign upon which is inscribed the international symbol of accessibility, and may also include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card.

4. The local police or sheriff's department may cause the removal of any vehicle not displaying a distinguishing license plate or card on which is inscribed the international symbol of accessibility and the word "disabled" issued pursuant to section 301.142 or a "disabled veteran" license plate issued pursuant to section 301.071 or a distinguishing license plate or card issued by any other state from a space designated for physically disabled persons if there is posted immediately adjacent to, and readily visible from, such space a sign on which is inscribed the international symbol of accessibility and may include any appropriate wording to indicate that the space is reserved for the exclusive use of vehicles which display a distinguishing license plate or card. Any person who parks in a space reserved for physically disabled persons and is not displaying distinguishing license plates or a card is guilty of an infraction and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than three hundred dollars. Any vehicle which has been removed and which is not properly claimed within thirty days thereafter shall be considered to be an abandoned vehicle.

5. Spaces designated for use by vehicles displaying the distinguishing "disabled" license plate issued pursuant to section 301.142 or 301.071 shall meet the requirements of the federal Americans with Disabilities Act, as amended, and any rules or regulations established pursuant thereto. Notwithstanding the other provisions of this section, on-street parking spaces designated by political subdivisions in residential areas for the exclusive use of vehicles displaying a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 shall meet the

requirements of the federal Americans with Disabilities Act pursuant to this subsection and any such space shall have clearly and visibly painted upon it the international symbol of accessibility and any curb adjacent to the space shall be clearly and visibly painted blue.

6. Any person who, without authorization, uses a distinguishing license plate or card issued pursuant to section 301.071 or 301.142 to park in a parking space reserved under authority of this section shall be guilty of [an infraction and shall be subject to a fine of not less than fifty dollars nor more than three hundred dollars] **a class B misdemeanor.**

7. Law enforcement officials may enter upon private property open to public use to enforce the provisions of this section and section 301.142, including private property designated by the owner of such property for the exclusive use of vehicles which display a distinguishing license plate or card issued pursuant to section 301.071 or 301.142.

8. Nonconforming signs or spaces otherwise required pursuant to this section which are in use prior to August 28, 1997, shall not be in violation of this section during the useful life of such signs or spaces. Under no circumstances shall the useful life of the nonconforming signs or spaces be extended by means other than those means used to maintain any sign or space on the owner's property which is not used for vehicles displaying a disabled license plate.

301.144. PERSONALIZED LICENSE PLATES, APPEARANCE, FEES — NEW PLATES EVERY THREE YEARS WITHOUT CHARGE — OBSCENE OR OFFENSIVE PLATES PROHIBITED — AMATEUR RADIO OPERATORS, PLATES, HOW MARKED — REPOSSESSED VEHICLES, PLACARDS — RETIRED U.S. MILITARY PLATES, HOW MARKED. — 1. The director of revenue shall establish and issue special personalized license plates containing letters or numbers or combinations of letters and numbers[, not to exceed six characters in length]. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Any person desiring to obtain a special personalized license plate for any motor vehicle **the person owns, either solely or jointly**, other than **an apportioned motor vehicle or** a commercial motor vehicle licensed [for more than twelve] **in excess of eighteen** thousand pounds **gross weight** shall apply to the director of revenue on a form provided by the director and shall pay a fee of fifteen dollars in addition to the regular registration fees. The director of revenue shall issue rules and regulations setting the standards and establishing the procedure for application for and issuance of the special personalized license plates and shall provide a deadline each year for the applications. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void. No two owners shall be issued identical plates. An owner shall make a new application and pay a new fee each year such owner desires to obtain or retain special personalized license plates; however, notwithstanding the provisions of subsection 8 of section 301.130 to the contrary, the director shall allow the special personalized license plates to be replaced with new plates every three years without any additional charge, above the fee established in this section, to the renewal applicant. Any person currently in possession of an approved personalized license plate shall have first priority on that particular plate for each of the following years that timely and appropriate application is made.

2. **Upon application for a personalized plate by the owner of a motor vehicle for which the owner has no registration plate available for transfer as prescribed by section 301.140, the director shall issue a temporary permit authorizing the operation of the motor vehicle until the personalized plate is issued.**

3. No personalized license plates shall be issued containing any letters, numbers or combination of letters and numbers which are obscene, profane, patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found. The director may recall any personalized license plates, including those issued prior to August 28, 1992, if the director determines that the plates are obscene, profane, patently offensive or contemptuous of a racial or ethnic group, or offensive to good taste or decency, or would present an unreasonable danger to the health or safety of the applicant, of other users of streets and highways, or of the public in any location where the vehicle with such a plate may be found. Where the director recalls such plates pursuant to the provisions of this subsection, the director shall reissue personalized license plates to the owner of the motor vehicle for which they were issued at no charge, if the new plates proposed by the owner of the motor vehicle meet the standards established pursuant to this section. The director shall not apply the provisions of this statute in a way that violates the Missouri or United States Constitutions as interpreted by the courts with controlling authority in the state of Missouri. The primary purpose of motor vehicle licence plates is to identify motor vehicles. Nothing in the issuance of a personalized license plate creates a designated or limited public forum. Nothing contained in this subsection shall be interpreted to prohibit the use of license plates, which are no longer valid for registration purposes, as collector's items or for decorative purposes.

[3.] 4. The director may also establish categories of special license plates from which license plates may be issued. Any such person, other than a person exempted from the additional fee pursuant to subsection 6 of this section, that desires a personalized special license plate from any such category shall pay the same additional fee and make the same kind of application as that required by subsection 1 of this section, and the director shall issue such plates in the same manner as other personalized special license plates are issued.

[4.] 5. The director of revenue shall issue to residents of the state of Missouri who hold an unrevoked and unexpired official amateur radio license issued by the Federal Communications Commission, upon application and upon payment of the additional fee specified in subsection 1 of this section, except for a person exempted from the additional fee pursuant to subsection 6 of this section, personalized special license plates bearing the official amateur radio call letters assigned by the Federal Communications Commission to the applicant **with the words "AMATEUR RADIO" in the place of the words "SHOW-ME STATE"**. The application shall be accompanied by [an affidavit] **a statement** stating that the applicant has an unrevoked and unexpired amateur radio license issued by the Federal Communications Commission and the official radio call letters assigned by the Federal Communications Commission to the applicant. **An owner making a new application and paying a new fee to retain an amateur radio plate may request a replacement plate with the words "AMATEUR RADIO" in place of the words "SHOW-ME STATE". If application is made to retain a plate that is three years old or older, the replacement plate shall be issued upon the payment of required fees.**

[5.] 6. Notwithstanding any other provision to the contrary, any business that repossesses motor vehicles or trailers and sells or otherwise disposes of them shall be issued a placard displaying the word "Repossessed", provided such business pays the fees presently required of a manufacturer, distributor, or dealer in subsection 1 of section 301.253. Such placard shall bear a number and shall be in such form as the director of revenue shall determine, and shall be only used for demonstrations when displayed substantially as provided for number plates on the rear of the motor vehicle or trailer.

[6.] 7. Notwithstanding any provision of law to the contrary, any person who has retired from any branch of the United States armed forces or reserves, the United States Coast Guard or reserve, the United States Merchant Marines or reserve, the National Guard, or any subdivision of any such services shall be exempt from the additional fee required for

personalized license plates issued pursuant to section 301.441. As used in this subsection, "retired" means having served twenty or more years in the appropriate branch of service and having received an honorable discharge.

301.190. CERTIFICATE OF OWNERSHIP — APPLICATION, CONTENTS — SPECIAL REQUIREMENTS, CERTAIN VEHICLES — FEES — FAILURE TO OBTAIN WITHIN TIME LIMIT, DELINQUENCY PENALTY — DURATION OF CERTIFICATE — UNLAWFUL TO OPERATE WITHOUT CERTIFICATE — CERTAIN VEHICLES BROUGHT INTO STATE IN A WRECKED OR DAMAGED CONDITION OR AFTER BEING TOWED, INSPECTION — CERTAIN VEHICLES PREVIOUSLY REGISTERED IN OTHER STATES, DESIGNATION — RECONSTRUCTED MOTOR VEHICLES, PROCEDURE. — 1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, RSMo, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making such application.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, RSMo, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's title and whether the transferor's odometer mileage statement executed pursuant to section 407.536, RSMo, indicated that the true mileage is materially different from the number of miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from the department of revenue.". On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

- (1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or
- (2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the

director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of one hundred dollars before November 1, 2003, and not to exceed a total of two hundred dollars on or after November 1, 2003, shall be imposed, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer or has sold a vehicle without obtaining a certificate, he shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section, together with all fees, charges and payments which he should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any applicant for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been issued as herein provided.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highway fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of revenue, shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highway fund.

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, it shall be

accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307, RSMo. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365, RSMo, for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365, RSMo. If the vehicle is also to be registered in Missouri, the safety and emissions inspections required in chapter 307, RSMo, shall be completed and only the fees required by sections 307.365 and 307.366, RSMo, shall be charged to the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle pursuant to another state's abandoned motor vehicle procedures shall, in lieu of the inspection required by subsection 10 of this section, be inspected by the Missouri state highway patrol in accordance with subsection 9 of this section. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.

12. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as reconstructed motor vehicle, motor change vehicle, specially constructed motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation.

13. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

14. The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section.

15. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, manufactured forty or more years prior to the current model year, and which has a value of three thousand dollars or less shall be accompanied by:

(1) A proper affidavit submitted by the owner explaining how the motor vehicle or trailer was acquired and, if applicable, the reasons a valid certificate of ownership cannot be furnished;

(2) Photo copies of receipts, bills of sale establishing ownership, or titles, and the source of all major component parts used to rebuild the vehicle;

(3) A fee of one hundred fifty dollars in addition to the fees described in subsection 5 of this section. Such fee shall be deposited in the state treasury to the credit of the state highway fund; and

(4) An inspection certificate, other than a motor vehicle examination certificate required under subsection 9 of this section, completed and issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The inspection performed by the highway patrol or other authorized local law enforcement agency shall include a check for stolen vehicles.

The department of revenue shall issue the owner a certificate of ownership designated with the words "Reconstructed Motor Vehicle" and deliver such certificate of ownership in accordance with the provisions of this chapter. Notwithstanding subsection 9 of this section, no owner of a reconstructed motor vehicle described in this subsection shall be required to obtain a vehicle examination certificate issued by the Missouri state highway patrol.

301.193. ABANDONED PROPERTY, TITLING OF, PRIVATELY OWNED REAL ESTATE, PROCEDURE. — 1. Any person who purchases or is the owner of real property on which vehicles, as defined in section 301.011, vessels or watercraft, as defined in section 306.010, RSMo, or outboard motors, as that term is used in section 306.530, RSMo, have been abandoned, without the consent of said purchaser or owner of the real property, may apply to the department of revenue for a certificate of title. **Any insurer which purchases a vehicle through the claims adjustment process for which the insurer is unable to obtain a negotiable title may make an application to the department of revenue for a salvage certificate of title pursuant to this section.** Prior to making application for a certificate of title **on a vehicle under this section**, the **insurer or** owner of the real estate shall have the vehicle inspected by law enforcement pursuant to subsection 9 of section 301.190, and shall have law enforcement perform a check in the national crime information center and any appropriate statewide law enforcement computer to determine if the vehicle has been reported stolen and the name and address of the person to whom the vehicle was last titled and any lienholders of record. The **insurer or** owner or purchaser of the real estate shall, thirty days prior to making application for title, notify any owners or lienholders of record for the vehicle by certified mail that the owner intends to apply for a certificate of title from the director for the abandoned vehicle. The application for title shall be accompanied by:

(1) A statement explaining the circumstances by which the [abandoned] property came into the **insurer**, owner or purchaser's possession; a description of the [abandoned] property including the year, make, model, vehicle identification number and any decal or license plate that may be affixed to the vehicle; the current location of the [abandoned] property; and the retail value of the [abandoned] property;

(2) An inspection report of the [abandoned] property, **if it is a vehicle**, by a law enforcement agency pursuant to subsection 9 of section 301.190; and

(3) A copy of the thirty-day notice and certified mail receipt mailed to any owner and any person holding a valid security interest of record.

2. Upon receipt of the application and supporting documents, the director shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the [abandoned] property **described in the application** was registered or titled in another state, to verify the name and address of any owners and any lienholders. If the latest owner or lienholder was not notified the director shall inform the **insurer**, owner, or purchaser of the real estate of the latest owner and lienholder information so that notice may be given as required by subsection 1 of this section. Any owner or lienholder receiving notification may protest the issuance of title by, within the thirty-day notice period and may file a petition to recover the vehicle, naming the **insurer or** owner of the real estate and serving a copy of the petition on the director of revenue. The director shall not be a party to such petition but shall, upon receipt of the petition, suspend the processing of any further certificate of title until the rights of all parties to the vehicle are determined by the court. Once all requirements are satisfied the director shall issue one of the following:

(1) An original certificate of title if the vehicle examination certificate, as provided in section 301.190, indicates that the vehicle was not previously in a salvaged condition or rebuilt;

(2) An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190 indicates the vehicle was previously in a salvaged condition or rebuilt;

(3) A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the [abandoned] property as stated in the inspection report. **An insurer purchasing a vehicle through the claims adjustment process under this section shall only be eligible to obtain a salvage certificate of title or junking certificate.**

301.196. TRANSFERORS OF INTEREST IN MOTOR VEHICLES OR TRAILERS, NOTICE TO REVENUE, WHEN, FORM — EXCEPTIONS. — 1. Beginning January 1, 2006, except as otherwise provided in this section, the transferor of an interest in a motor vehicle or trailer listed on the face of a Missouri title, excluding salvage titles and junking certificates, shall notify the department of revenue of the transfer within thirty days of the date of transfer. The notice shall be in a form determined by the department by rule and shall contain:

- (1) A description of the motor vehicle or trailer sufficient to identify it;
- (2) The vehicle identification number of the motor vehicle or trailer;
- (3) The name and address of the transferee;
- (4) The date of birth of the transferee, unless the transferee is not a natural person;
- (5) The date of the transfer or sale;
- (6) The purchase price of the motor vehicle or trailer, if applicable;
- (7) The number of the transferee's drivers license, unless the transferee does not have a drivers license;
- (8) The printed name and signature of the transferee;
- (9) Any other information required by the department by rule.

2. For purposes of giving notice under this section, if the transfer occurs by operation of law, the personal representative, receiver, trustee, sheriff, or other representative or successor in interest of the person whose interest is transferred shall be considered the transferor. Repossession by a creditor shall not be considered a transfer of ownership requiring such notice.

3. The requirements of this section shall not apply to transfers when there is no complete change of ownership interest or upon award of ownership of a motor vehicle or trailer made by court order, or transfers of ownership of a motor vehicle or trailer to or between vehicle dealers, or transfers of beneficial ownership of a motor vehicle owned by a trust.

4. Notification under this section is only required for transfers of ownership that would otherwise require registration and an application for certificate of title in this state under section 301.190, and is for informational purposes only and does not constitute an assignment or release of any interest in the vehicle.

5. Retail sales made by licensed dealers including sales of new vehicles shall be reported pursuant to the provisions of section 301.280.

301.197. NOTIFICATION OF TRANSFER OF INTEREST INCLUDED IN REVENUE RECORDS, WHEN — APPLICATION FOR NEW TITLE, FAILURE TO APPLY, EFFECT — RULEMAKING AUTHORITY. — 1. Beginning January 1, 2006, upon receipt of a notification of transfer described in section 301.196, the department shall make a notation on its records indicating that it has received notification that an interest in the motor vehicle or trailer has been transferred. The notation shall be made whether or not the form submitted to the department contains all the information required by section 301.196, so long as there is sufficient information to identify the motor vehicle or trailer and the name and address of the transferee. Thereafter, until a new title is issued, when the department is asked or is required by law to provide the name of the owner or lienholder of a motor vehicle or trailer as shown on its records, the department shall provide the name of the owner or lienholder recorded on the latest title or lien perfection of record and indicate that department records show a notification of transfer but do not show a title transfer. The department shall also provide the name of the transferee, if otherwise permitted by law, if it is shown on the form submitted by the transferor pursuant to section 301.196.

2. If the department does not receive an application for title from the person named as transferee in a form submitted pursuant to section 301.196 within sixty days of the receipt of the form, the department shall notify the transferee to apply for title. Notification shall be made as soon after the sixtieth day after receipt of the form as is

convenient for the department. The provisions of this subsection shall be in addition to the requirements of section 301.190.

3. The department may adopt rules for the implementation of section 301.196 and this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Notwithstanding section 226.200, RSMo, to the contrary the general assembly may appropriate state highways and transportation department funds for the requirements of sections 301.196, 301.198, and 301.280, and this section.

301.198. SUBMITTING FALSE INFORMATION ABOUT TRANSFER OF A VEHICLE, OFFENSE OF, PENALTY. — 1. Beginning January 1, 2006, a person commits the offense of knowingly submitting false information about transfer of a vehicle if the person submits a notice of transfer of an interest in a motor vehicle or trailer as described in section 301.196 to the department of revenue and the person knows that some or all of the information contained in the notice is false. The offense described in this section, knowingly submitting false information about transfer of a vehicle, is a class C misdemeanor.

2. Any person who fails to submit the required notice pursuant to section 301.196 shall be guilty of an infraction. If the failure to submit the required notice was done to assist the transferee to avoid applying for title, paying applicable registration fees or other fraudulent purposes, then the person shall be guilty of a class C misdemeanor.

301.217. DEFINITIONS — SALVAGED MOTOR VEHICLE TITLE MAY BE ISSUED, WHEN, PROCEDURE. — 1. As used in sections 301.217 to 301.229, the following words and phrases mean:

(1) "Purchaser", the buyer of a salvage vehicle, including an insurance company for purposes of sections 301.217 to 301.229;

(2) "Salvage certificate of title", the title issued by the department of revenue as proof of ownership for a salvaged vehicle, and it shall not be acceptable for the purpose of registering a motor vehicle. The salvage title shall be negotiable with one reassignment on back by registered dealers **or insurance companies** only. The redeemed title shall be returned in its original form;

(3) "Salvage pool" or "salvage disposal sale", a scheduled sale at auction or by private bid of wrecked or repairable motor vehicles or trailers by insurance companies, underwriters, or dealers, either at retail or wholesale.

2. The department of revenue may issue a certificate of title for a salvaged motor vehicle at least twenty-five years old and if, in the judgment of the department of revenue it may be needed, require the applicant to file with the department of revenue a corporate surety bond in the form prescribed by the department and executed by the applicant, and executed by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the department and conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage, including reasonable attorney's fees, by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be

returned at the end of three years or prior thereto if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

301.219. APPLICATION TO BE SUBMITTED, CONTENTS — FEE. — Application for a license shall be submitted [by July first of each year] **biennially** and shall be made on the form the department prescribes, containing the name of the applicant, the address where business is to be conducted, the kind of business, enumerated in section 301.218 to be conducted, the residence address of the applicant if an individual, the names and residence addresses of the partners of the applicant if a partnership, the names and residence addresses of the principal officers of the applicant and the state of its incorporation, if a corporation. The application shall be verified by the oath or affirmation of the applicant, if the applicant is a partnership or a corporation, by a partner or officer of the applicant and shall be accompanied by a fee of [sixty-five] **one hundred thirty** dollars every [year] **two years** for each kind of business required to be licensed under subdivision (1), (2), (3), or (4) of subsection 1 of section 301.218. If the applicant conducts business at different locations, a separate application, license and [sixty-five] **one hundred thirty** dollar [annual] fee shall be required for each location. **The director may stagger the expiration dates to equalize the workload.**

301.221. APPLICATION TO BE SUBMITTED, CONTENTS, REQUIREMENTS TO OBTAIN LICENSE — FEE. — 1. The department shall file each application received by it with the required fee, and when satisfied that the applicant, if an individual, or each of the partners or principal officers of the applicant, if a partnership or a corporation, is of good moral character and that the applicant, so far as can be ascertained, has complied and will comply with the provisions of sections 301.217 to 301.229 and the laws of this state relating to registration of and certificates of title of vehicles, shall issue to the applicant a license to carry on and conduct the kind of businesses, enumerated in section 301.218, specified in the application at the address therein specified, until [July first next following the date on which] the **next** license [is issued] **renewal date**.

2. **When the application is being made for licensure as a salvage dealer, a certification by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of salvage is in the metropolitan area where the certifying metropolitan police officer is employed.** An applicant shall have a bona fide established place of business which shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of business by the applicant for:

- (1) Selling used parts of or used accessories for vehicles; or
- (2) Salvaging, wrecking or dismantling vehicles for resale of the parts thereof; or
- (3) Rebuilding and repairing wrecked or dismantled vehicles; or
- (4) Processing scrapped vehicles or vehicle parts.

3. The applicant's place of business shall be a place wherein the public may contact the owner or operator, in person or by telephone, at any reasonable time, and wherein shall be kept and maintained the books, records, files, tools, equipment and other matters required and necessary to conduct the business.

4. The application shall include a photograph, not to exceed eight inches by ten inches, showing the building and business premises and shall accompany the initial application but will not be required for subsequent renewals unless substantial changes have been made to the building or business premises.

301.227. SALVAGE CERTIFICATE OF TITLE MANDATORY OR OPTIONAL, WHEN — ISSUANCE, FEE — JUNKING CERTIFICATE ISSUED OR RESCINDED, WHEN. — 1. Whenever a vehicle is sold for salvage, dismantling or rebuilding, the purchaser shall forward to the director of revenue within ten days the certificate of ownership or salvage certificate of title and the proper application and fee of eight dollars and fifty cents, and the director shall issue a negotiable salvage certificate of title to the purchaser of the salvaged vehicle. On vehicles not more than seven years old, it shall be mandatory that the purchaser apply for a salvage title, but on vehicles over seven years old, application for a salvage title shall be optional on the part of the purchaser. Whenever a vehicle is sold for destruction and a salvage certificate of title, junking certificate, or certificate of ownership exists, the seller, if licensed under sections 301.217 to 301.221, shall forward the certificate to the director of revenue within ten days, with the notation of the date sold for destruction and the name of the purchaser clearly shown on the face of the certificate.

2. Whenever a vehicle is classified as "junk", as defined in section 301.010, the purchaser may forward to the director of revenue the salvage certificate of title or certificate of ownership and the director shall issue a negotiable junking certificate to the purchaser of the vehicle. The director may also issue a junking certificate to a possessor of a vehicle [of a 1954 model or older] **manufactured twenty-six years or more prior to the current model year** who has a bill of sale for said vehicle but does not possess a certificate of ownership, provided no claim of theft has been made on the vehicle and the highway patrol has by letter stated the vehicle is not listed as stolen after checking the registration number through its nationwide computer system. Such certificate may be granted within thirty days of the submission of a request.

3. Upon receipt of a properly completed application for a junking certificate, the director of revenue shall issue to the applicant a junking certificate which shall authorize the holder to possess, transport, or, by assignment, transfer ownership in such parts, scrap or junk, and a certificate of title shall not again be issued for such vehicle; except that, the initial purchaser shall, within ninety days, be allowed to rescind his application for a junking certificate by surrendering the junking certificate and apply for a salvage certificate of title in his name. The seller of a vehicle for which a junking certificate has been applied for or issued shall disclose such fact in writing to any prospective buyers before sale of such vehicle; otherwise the sale shall be voidable at the option of the buyer.

4. No scrap metal operator shall acquire or purchase a motor vehicle or parts thereof without, at the time of such acquisition, receiving the original certificate of title or salvage certificate of title or junking certificate from the seller of the vehicle or parts, unless the seller is a licensee under sections 301.219 to 301.221.

5. All titles and certificates required to be received by scrap metal operators from nonlicensees shall be forwarded by the operator to the director of revenue within ten days of the receipt of the vehicle or parts.

6. The scrap metal operator shall keep a record, for three years, of the seller's name and address, the salvage business license number of the licensee, date of purchase, and any vehicle or parts identification numbers open for inspection as provided in section 301.225.

7. Notwithstanding any other provision of this section, a motor vehicle dealer as defined in section 301.550 and licensed under the provisions of sections 301.550 to 301.572 may negotiate one reassignment of a salvage certificate of title on the back thereof.

8. Notwithstanding the provisions of subsection 1 of this section, an insurance company which settles a claim for a stolen vehicle shall be issued a negotiable salvage certificate of title without the payment of any fee upon proper application within thirty days after settlement of the claim for such stolen vehicle. **However, if the insurance company upon recovery of a stolen vehicle determines that the stolen vehicle has not sustained damage to the extent that the vehicle would have otherwise been declared a salvage vehicle pursuant to subdivision (50) of section 301.010, then the insurance company may have the vehicle inspected by the Missouri state highway patrol, or other law enforcement agency authorized by the director of revenue, in accordance with the inspection provisions of subsection 9 of section**

301.190. Upon receipt of title application, applicable fee, the completed inspection, and the return of any previously issued negotiable salvage certificate, the director shall issue an original title with no salvage designation. Upon the issuance of an original title the director shall remove any indication of the negotiable salvage title previously issued to the insurance company from the department's electronic records.

301.280. DEALERS AND GARAGE KEEPERS, SALES REPORT REQUIRED — UNCLAIMED VEHICLE REPORT REQUIRED, CONTENTS — ALTERATION OF VEHICLE IDENTIFICATION NUMBER, EFFECT. — 1. Every motor vehicle dealer and boat dealer shall make a monthly report to the department of revenue, on blanks to be prescribed by the department of revenue, giving the following information: Date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle sold; the name and address of the buyer; the name of the manufacturer; year of manufacture; model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand. The odometer reading is not required when reporting the sale of any motor vehicle that is ten years old or older, any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that are transferred on a manufacturer's statement of origin between one franchised motor vehicle dealer and another, or boats, all-terrain vehicles or trailers. The sale of all [twenty-day] **thirty-day** temporary permits, without exception, shall be recorded in the appropriate space on the dealer's monthly sales report by recording the complete permit number issued on the motor vehicle or trailer sale listed. The monthly sales report shall be completed in full and signed by an officer, partner, or owner of the dealership, and actually received by the department of revenue on or before the fifteenth day of the month succeeding the month for which the sales are being reported. If no sales occur in any given month, a report shall be submitted for that month indicating no sales. **Any vehicle dealer who fails to file a monthly report or who fails to file a timely report shall be subject to disciplinary action as prescribed in section 301.562 or a penalty assessed by the director not to exceed three hundred dollars per violation.** Every motor vehicle and boat dealer shall retain copies of the monthly sales report as part of the records to be maintained at the dealership location and shall hold them available for inspection by appropriate law enforcement officials and officials of the department of revenue. **Beginning January 1, 2006, the monthly sales report required by this subsection may be filed electronically. Beginning January 1, 2007, every vehicle dealer selling twenty or more vehicles a month shall file the monthly sales report with the department in an electronic format. Any dealer filing a monthly sales report in an electronic format shall be exempt from filing the notice of transfer required by section 301.196. For any dealer not filing electronically, the notice of transfer required by section 301.196 shall be submitted with the monthly sales report as prescribed by the director.**

2. Every dealer and every person operating a public garage shall keep a correct record of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together with the name and address of the person delivering such motor vehicle or trailer to the dealer or public garage keeper, and the person delivering such motor vehicle or trailer shall record such information in a file kept by the dealer or garage keeper. The record shall be kept for three years and be open for inspection by law enforcement officials and persons, agencies and officials designated by the director of revenue.

3. Every dealer and every person operating a public garage in which a motor vehicle remains unclaimed for a period of fifteen days shall, within five days after the expiration of that period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and address are known to the dealer or his employee or person operating a public garage or his employee is not considered unclaimed. Any dealer or person operating a public garage who fails

to report a motor vehicle as unclaimed as herein required forfeits all claims and liens for its garaging, parking or storing.

4. The director of revenue shall maintain appropriately indexed cumulative records of unclaimed vehicles reported to the director. Such records shall be kept open to public inspection during reasonable business hours.

5. The alteration or obliteration of the vehicle identification number on any such motor vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public garage shall upon the discovery of such obliteration or alteration immediately notify the highway patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period of forty-eight hours for the purpose of an investigation by the officer so notified.

301.290. CORRECTIONAL ENTERPRISES TO MANUFACTURE PLATES AND HIGHWAY SIGNS — MONEY RECEIVED FOR MANUFACTURING PLATES AND SIGNS, HOW DEPOSITED. —

1. Correctional enterprises of the department of corrections shall purchase, erect and maintain all of the machinery and equipment necessary for the manufacture of the license plates and tabs issued by the director of revenue, and of signs used by the state transportation department.

Beginning on January 1, 2009, correctional enterprises shall no longer erect and maintain tabs for the department of revenue.

2. The director of revenue shall procure all plates [and tabs] issued by him, and the state transportation department shall procure all signs used by it from correctional enterprises, unless an emergency arises and correctional enterprises cannot furnish the plates, tabs or signs.

3. Correctional enterprises shall furnish the plates[, tabs] and signs at such a price as will not exceed the price at which such plates[, tabs] and signs may be obtained upon the open market, but in no event shall such price be less than the cost of manufacture, including labor and materials.

4. All moneys derived from the sale of the plates, tabs and signs shall be paid into the state treasury to the credit of the working capital revolving fund as provided in section 217.595, RSMo.

301.444. FIREFIGHTERS, SPECIAL LICENSES FOR CERTAIN VEHICLES — FEE. — [1.

Owners or a joint owner of motor vehicles who are residents of the state of Missouri, and who are directors of a fire protection district or who are compensated, partially compensated or volunteer members of any fire department, fire protection district or voluntary fire protection association in this state, upon application accompanied by affidavit as prescribed in this section, complying with the state motor vehicle laws relating to registration and licensing of motor vehicles, and upon payment of a fee as prescribed in this section, shall be issued a set of license plates for noncommercial vehicles or a commercial motor vehicle licensed for no more than twelve thousand pounds. The license plates shall be inscribed with a variation of the Maltese cross that signifies the universally recognized symbol for firefighters. In addition, upon such set of license plates shall be inscribed, in lieu of the words "Show-me State", the word "FIREFIGHTER" in addition to a combination of letters and numbers in a form prescribed by the advisory committee established in section 301.129. Such license plates shall be made with fully reflective material, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

2. Applications for license plates issued under this section shall be made to the director of revenue and shall be accompanied by an affidavit stating that the applicant is a person described in subsection 1 of this section. Any person who is lawfully in possession of such plates who resigns, is removed, or otherwise terminates or is terminated from his association with such fire department, fire protection district or voluntary fire protection association shall return such special plates to the director within fifteen days.

3. An additional annual fee equal to that charged for personalized license plates in section 301.144 shall be paid to the director of revenue for the issuance of the license plates provided for in this section.] **1. Any person, as defined in subsection 3 of this section, may apply for special license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Firefighter Memorial Foundation of Missouri hereby authorizes the use of its official emblem to be affixed on multi-year personalized license plates as provided in this section.**

2. Upon application and payment of a one time twenty-five dollar emblem-use contribution to the Firefighter Memorial Foundation of Missouri, the foundation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the department of revenue at the time of registration of a motor vehicle.

3. As used in this section, the term "person" shall mean:

- (1) A director of a fire protection district;**
- (2) Persons compensated, partially compensated, or volunteer members of any fire department, fire protection district, or voluntary fire protection association of this state;**
- (3) A person wounded in the line of duty as a firefighter; or**
- (4) A surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a firefighter.**

4. Upon presentation of the emblem-use authorization statement and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a personalized license plate to the vehicle owner, which shall bear the emblem of the Firefighter Memorial Foundation of Missouri and the word "FIREFIGHTER" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

4. The director of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.463. CHILDREN'S TRUST FUND LOGO PLATES — ANNUAL FEE FOR AUTHORITY TO USE — DESIGN — DEPOSIT OF FEE IN TRUST FUND — SAMPLE PLATE DISPLAY. — 1. The children's trust fund board established in section 210.170, RSMo, may authorize the use of their logo to be incorporated on [multiyear personalized] **motor vehicle** license plates [as provided in this section] **for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.** The license plate shall contain an emblem designed by the board depicting two handprints of a child and the words "Children's Trust Fund" and the children's trust fund logo in preference to the words "SHOW-ME STATE". The license plates shall have a common background and shall bear as many letters and numbers as will fit on the plate without damaging the plate's aesthetic appearance as determined by the director of revenue.

Any vehicle owner may annually apply to the board **or director** for the use of the logo. Upon annual application and payment of a twenty-five dollar logo use contribution to the board, the board shall issue to the vehicle owner, without further charge, a "logo use authorization statement", which shall be presented by the vehicle owner to the department of revenue at the time of registration. **Application for use of the logo and payment of the twenty-five dollar contribution may also be made at the time of registration to the director, who shall deposit such contribution in the state treasury to the credit of the children's trust fund.** Upon presentation of the annual statement [and], payment of [the fee required for personalized license plates in section 301.144, and other] **a fifteen dollar fee in addition to the regular registration fees and presentation of documents** which may be required by law, the department of revenue shall issue a [personalized] license plate described in this section to the vehicle owner. **Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section. There shall be no limit on the number of license plates any person qualified pursuant to this section may obtain so long as each set of plates issued pursuant to this section is issued for vehicles owned solely or jointly by such person.** The license plate authorized by this section shall be issued with a design approved by both the board and the director of revenue. The bidding process used to select a vendor for the material to manufacture the license plates authorized by this section shall consider the aesthetic appearance of the plate. A vehicle owner, who was previously issued a plate with [an emblem] **a logo** authorized by this section and who does not provide [an emblem] **a logo** use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the [emblem] **logo**, as otherwise provided by law. Any contribution to the board derived from this section shall be deposited in the state treasury to the credit of the children's trust fund established in section 210.173, RSMo.

2. The director of revenue shall issue samples of license plates authorized pursuant to this section to all offices in this state where vehicles are registered and license plates are issued. Such sample license plates shall be prominently displayed in such offices along with literature prepared by the director or by the children's trust fund board describing the purposes of the children's trust fund. The general assembly may appropriate moneys annually from the children's trust fund to the department of revenue to offset costs reasonably incurred by the director of revenue pursuant to this subsection.

301.469. MISSOURI CONSERVATION HERITAGE FOUNDATION, SPECIAL LICENSE PLATE — APPLICATION, PROCEDURE, DESIGN, FEE. — 1. Any vehicle owner may receive license plates as prescribed in this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri conservation heritage foundation. The foundation hereby authorizes the use of its official emblems to be affixed on multiyear [personalized] license plates as provided in this section. Any vehicle owner may annually apply for the use of the emblems.

2. Upon annual application and payment of a twenty-five dollar emblem-use authorization fee to the Missouri conservation heritage foundation, the foundation shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented to the director of the department of revenue at the time of registration of a motor vehicle.

3. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the regular registration fees and documents which may be required by law, the director of the department of revenue shall issue a [personalized] license plate, which shall bear an emblem of the Missouri conservation heritage foundation in a form prescribed by the director, to the vehicle owner. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. **Notwithstanding the provisions of section 301.144, no**

additional fee shall be charged for the personalization of license plates pursuant to this section.

4. A vehicle owner, who was previously issued a plate with a Missouri conservation heritage foundation emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the foundation emblem, as otherwise provided by law.

5. The director of the department of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

301.562. LICENSE SUSPENSION, REVOCATION, REFUSAL TO RENEW — PROCEDURE — GROUNDS — COMPLAINT MAY BE FILED, WHEN. — 1. The department may refuse to issue or renew any license required pursuant to sections 301.550 to 301.573 for any one or any combination of causes stated in subsection 2 of this section. The department shall notify the applicant or licensee in writing at his last known address of the reasons for the refusal to issue or renew the license and shall advise the applicant or licensee of his right to appeal the decision of the department as provided in chapter 536, RSMo.

2. The department may take such disciplinary action as provided in subsection 3 of this section upon a written notice and an opportunity to be heard in substantially the same manner as provided in chapter 536, RSMo, against any holder of any license issued under sections 301.550 to 301.573 for any one or any combination of the following causes:

(1) The applicant or license holder was previously the holder of a license issued under sections 301.550 to 301.573, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled;

(2) The applicant or license holder was previously a partner, stockholder, director or officer controlling or managing a partnership or corporation whose license issued under sections 301.550 to 301.573 was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled;

(3) The applicant or license holder has, within ten years prior to the date of the application, been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a [criminal] prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any business licensed under sections 301.550 to 301.573; for any offense, an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(4) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to sections 301.550 to 301.573;

(5) Obtaining or attempting to obtain any money, commission, fee, barter, exchange or other compensation by fraud, deception or misrepresentation;

(6) Violation of, or assisting or enabling any person to violate any provisions of [sections 301.550 to 301.573] **this chapter and chapters 306, 307, 407, 578, and 643, RSMo**, or of any lawful rule or regulation adopted pursuant to [sections 301.550 to 301.573] **this chapter and chapters 306, 307, 407, 578, and 643, RSMo**;

(7) The applicant or license holder has filed an application for a license which, as of its effective date, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(8) The applicant or license holder has failed to pay the proper application or license fee **or other fees required pursuant to this chapter or chapter 306, RSMo**, or fails to establish or maintain a bona fide place of business;

(9) Uses or permits the use of any special license or license plate assigned to him for any purpose other than those permitted by law;

(10) The applicant or license holder is finally adjudged insane or incompetent by a court of competent jurisdiction;

(11) Use of any advertisement or solicitation which is false;

(12) Violations of sections [301.550 to 301.573 or violations of this chapter, sections] 407.511 to 407.556, RSMo, section 578.120, RSMo, which resulted in a [felony] conviction or finding of guilt or violation of any federal motor vehicle laws which result in a [felony] conviction or finding of guilt.

3. Upon a finding by the department that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the department may refuse to issue the person a license, issue a private reprimand, place the person on probation on such terms and conditions as the department deems appropriate for a period of one day to five years, suspend the person's license from one day to six days, or revoke the person's license for such period as the department deems appropriate. The applicant or licensee shall have the right to appeal the decision of the department in the manner provided in chapter 536, RSMo.

4. Upon the suspension or revocation of any person's license issued under sections 301.550 to 301.573, the department shall recall any distinctive number plates that were issued to that licensee.

301.566. MOTOR VEHICLE SALES OR SHOWS HELD AWAY FROM LICENSED PLACE OF BUSINESS, ALLOWED, WHEN — OFF-SITE RETAIL SALE OF VEHICLES, WHEN — RECREATIONAL VEHICLE DEALER PARTICIPATION IN RECREATIONAL VEHICLE SHOWS AND VEHICLE EXHIBITIONS — OUT-OF-STATE DEALERS, REQUIREMENTS. — 1. A motor vehicle dealer may participate in any motor vehicle show or sale and conduct sales of motor vehicles away from the dealer's usual, licensed place of business if either the requirements of subsection 2 or 3 of this section are met or the event is conducted for not more than ten days, and if a majority of the motor vehicle dealers within a class of dealers described pursuant to subsection 3 of section 301.550 in a city or town participate or are invited and have the opportunity to participate in the event, except that a recreational motor vehicle dealer classified in subdivision (5) of subsection 3 of section 301.550 may participate in such a show or sale even if a majority of recreational motor vehicle dealers in a city or town do not participate in the event. The department shall consider such events to be proper in all respects and as if each dealer participant was conducting business at the dealer's usual business location. Nothing contained in this section shall be construed as applying to the sale of motor vehicles or trailers through either a wholesale motor vehicle auction or public motor vehicle auction.

2. Any person, partnership, corporation or association disposing of vehicles used and titled solely in its ordinary course of business as provided in section 301.570 may sell at retail such vehicles away from that person's bona fide established place of business, thus constituting an off-site sale, by adhering to each of the following conditions with regard to each and every off-site sale conducted:

(1) Have in effect a valid license, pursuant to sections 301.550 to 301.575, from the department for the sale of used motor vehicles;

(2) No off-site sale may exceed ten days in duration, and only one sale may be held per year, per county, in counties of the third and fourth classification;

(3) Pay to the motor vehicle commission fund, pursuant to section 301.560, a permit fee of two hundred fifty dollars for each off-site sale event;

(4) Advise the department, at least ten days prior to the sale, of the date, location and duration of each off-site sale;

(5) The sale of vehicles at off-site sales shall be limited to sales by a seller of vehicles used and titled solely in its ordinary course of business, and such sales shall be held in conjunction with a credit union and limited to members of the credit union, thus constituting a private sale to be advertised to members only;

(6) Off-site sales by a seller of vehicles used and titled solely in its ordinary course of business may also be held in conjunction with other financial institutions provided that any such sale event shall be held on the premises of the financial institution, and sales shall be limited to persons who were customers of the financial institution prior to the date of the sale event. Off-site sales held with such other financial institutions shall be limited to one sale per year per institution;

(7) The sale of motor vehicles which have the designation of the current model year, except discontinued models, is prohibited at off-site sales until subsequent model year designated vehicles of the same manufacture and model are offered for sale to the public.

3. A recreational vehicle dealer, as that term is defined in section 700.010, RSMo, who is licensed in another state may participate in recreational vehicle shows or exhibits with recreational vehicles within this state, in which less than fifty dealers participate as exhibitors with permission of the dealer's licensed manufacturer if all of the following conditions exist:

(1) The show or exhibition has a minimum of ten recreational vehicle dealers licensed as motor vehicle dealers in this state;

(2) More than fifty percent of the participating recreational vehicle dealers are licensed motor vehicle dealers in this state; and

(3) The state in which the recreational vehicle is licensed is a state contiguous to Missouri and the state permits recreational vehicle dealers licensed in Missouri to participate in recreational vehicle shows in such state pursuant to conditions substantially equivalent to the conditions which are imposed on dealers from such state who participate in recreational vehicle shows in Missouri.

4. A recreational vehicle dealer licensed in another state may participate in a vehicle show or exhibition in Missouri which has, when it opens to the public, at least fifty dealers displaying recreational vehicles if the show or exhibition is trade-oriented and is predominantly funded by recreational vehicle manufacturers. All of the participating dealers who are not licensed in Missouri shall be licensed as recreational vehicle dealers by the state of their residence.

5. A recreational vehicle dealer licensed in another state who intends to participate in a vehicle show or exhibition in this state, shall send written notification of such intended participation to the department of revenue at least thirty days prior to the vehicle show or exhibition. Upon receipt of such written notification, the department of revenue shall make a determination regarding compliance with the provisions of this section. If such recreational vehicle dealer would be unable to participate in the vehicle show or exhibition in this state pursuant to this section, the department of revenue shall notify the recreational vehicle dealer at least fifteen days prior to the vehicle show or exhibition of the inability to participate in the vehicle show or exhibition in this state.

6. The department of revenue may assess a fine of up to one thousand dollars for any violation of this section.

301.681. CERTIFICATE OF OWNERSHIP IN BENEFICIARY FORM — MULTIPLE BENEFICIARIES ALLOWED — REASSIGNMENT PERMITTED — PROCEDURE TO ISSUE, CONTENT, FEE — CONSENT NOT REQUIRED FOR TRANSACTIONS, REVOCATION — INTEREST SUBJECT TO CERTAIN CLAIMS — TRANSFER NOT DEEMED TESTAMENTARY. — 1. A sole owner of a motor vehicle or trailer, and multiple owners of a motor vehicle or trailer who hold

their interest as joint tenants with right of survivorship or as tenants by the entirety, on application and payment of the fee required for an original certificate of ownership, may request the director of revenue to issue a certificate of ownership for the motor vehicle or trailer in beneficiary form which includes a directive to the director of revenue to transfer the certificate of ownership on death of the sole owner or on death of all multiple owners to one beneficiary or to two or more beneficiaries as joint tenants with right of survivorship or as tenants by the entirety named on the face of the certificate. **The directive to the director of revenue shall also permit the beneficiary or beneficiaries to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary or beneficiaries' name.**

2. A certificate of ownership in beneficiary form may not be issued to persons who hold their interest in a motor vehicle or trailer as tenants in common.

3. A certificate of ownership issued in beneficiary form shall include after the name of the owner, or after the names of multiple owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

4. (1) During the lifetime of a sole owner and during the lifetime of all multiple owners, the signature or consent of the beneficiary or beneficiaries shall not be required for any transaction relating to the motor vehicle or trailer for which a certificate of ownership in beneficiary form has been issued.

(2) A certificate of ownership in beneficiary form may be revoked or the beneficiary or beneficiaries changed at any time before the death of a sole owner or surviving multiple owner only by the following methods:

(a) By a sale of the motor vehicle or trailer with proper assignment and delivery of the certificate of ownership to another person; or

(b) By filing an application to reissue the certificate of ownership with no designation of a beneficiary or with the designation of a different beneficiary or beneficiaries with the director of revenue in proper form and accompanied by the payment of the fee for an original certificate of ownership.

(3) The beneficiary's or beneficiaries' interest in the motor vehicle or trailer at death of the owner or surviving owner shall be subject to any contract of sale, assignment of ownership or security interest to which the owner or owners of the motor vehicle or trailer were subject during their lifetime.

(4) The designation of a beneficiary or beneficiaries in a certificate of ownership issued in beneficiary form may not be changed or revoked by a will, any other instrument, or a change in circumstances, or otherwise be changed or revoked except as provided by subdivision (2) of this subsection.

5. (1) On proof of death of one of the owners of two or more multiple owners, or of a sole owner, surrender of the outstanding certificate of ownership, and on application and payment of the fee for an original certificate of ownership, the director of revenue shall issue a new certificate of ownership for the motor vehicle or trailer to the surviving owner or owners or, if none, to the surviving beneficiary or beneficiaries, subject to any outstanding security interest; and the current valid certificate of number shall be so transferred. **If the surviving beneficiary or beneficiaries make a request of the director of revenue, the director may allow the beneficiary or beneficiaries to make one assignment of title.**

(2) The director of revenue may rely on a death certificate or record or report that constitutes prima facie proof or evidence of death under subdivisions (1) and (2) of section 472.290, RSMo.

(3) The transfer of a motor vehicle or trailer at death pursuant to this section is effective by reason of sections 301.675 to 301.682 and sections 306.455 to 306.465, RSMo, and is not to be considered as testamentary, or to be subject to the requirements of section 473.087, RSMo, or section 474.320, RSMo.

301.2999. LIMITATION ON SPECIAL LICENSE PLATES, ORGANIZATION AUTHORIZING USE OF ITS EMBLEM FOR A FEE. — 1. No specialized license plate shall be issued after January 1, 2002, by the director of revenue which proposes to raise revenue or funds for an organization which authorizes the use of its emblem for a fee unless such organization:

(1) Is a governmental entity; or
(2) Is an organization registered pursuant to section 501(c) of the 1986 Internal Revenue Code, as amended, or an equivalent law which applies to such not-for-profit entity.

2. Any organization which raises revenues or funds through the sponsorship of specialized license plates issued pursuant to the provisions of this chapter enacted prior to January 1, 2002, shall have until January 1, 2004, to comply with the provisions of this section. The director shall verify that all organizations that are paid fees for the use of their emblems for specialized license plates are complying with the provisions of this section. The director shall require all organizations which receive revenues for or funds for the use of their emblems to verify their status as a governmental entity or a qualified not-for-profit organization as provided in subsection 1 of this section, in a format prescribed by the director. Any specialized license plates issued prior to January 1, 2004, shall remain valid for the period in which they were registered, regardless of the status of the sponsoring organization.

3. Any moneys received by an organization authorizing the use of its emblem or insignia for a specialized license plate shall only be used by such organization to carry out the organization's charitable mission. Such moneys shall not be used for salaries or any administrative costs of the organization. No individual member of any organization authorizing the use of its emblem or insignia for a specialized license plate shall derive any personal pecuniary gain from any fees the organization collects.

4. The director of revenue shall not authorize the manufacture of the material to produce such specialized license plates with the individual seal, logo, or emblem until such time the director has received [one] **two** hundred applications for such plates[. An organization shall be exempt from the provisions of this subsection if it] **and the organization** deposits with the department of revenue [the actual cost of producing the initial issuance of such plates and the director receives at least ten applications for such plates] **a fee of up to five thousand dollars to defray the cost for issuing, developing and programming the implementation of the specialty plate.**

5. The provisions of this section shall not apply to any special license plates which bears the emblem or insignia of a branch of the U.S. military or a military organization.

301.3032. MARCH OF DIMES SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. **Any person, after an annual payment of an emblem-use authorization fee to a Missouri chapter of the March of Dimes, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The March of Dimes hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. Any contribution to a Missouri chapter of the March of Dimes derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the March of Dimes. Any person may annually apply for the use of the emblem.**

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to a Missouri chapter of the March of Dimes, the March of Dimes shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special

license plate which shall bear the emblem of the March of Dimes and the words "MARCH OF DIMES" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the March of Dimes emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the March of Dimes emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3074. NAACP SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any member of the National Association for the Advancement of Colored People, after an annual payment of an emblem-use authorization fee to any branch office of the National Association for the Advancement of Colored People located within Missouri, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The National Association for the Advancement of Colored People hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. Any contribution to the National Association for the Advancement of Colored People derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the National Association for the Advancement of Colored People. Any member of the National Association for the Advancement of Colored People may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to any branch office of the National Association for the Advancement of Colored People located within Missouri, the National Association for the Advancement of Colored People shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the National Association for the Advancement of Colored People and the letters "NAACP" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the National Association for the Advancement of Colored People emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the National Association for the Advancement of Colored People emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3079. MISSOURI AGRICULTURE SPECIAL LICENSE PLATES, APPLICATION, FEE. —

1. Any person, after an annual payment of an emblem-use authorization fee to the Missouri Farm Bureau, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Farm Bureau hereby authorizes the use of the Missouri "Agriculture in the Classroom" official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. All moneys received by the Missouri Farm Bureau pursuant to this section shall be used solely to fund Missouri's Agriculture in the Classroom program and to further the mission of such program. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Missouri Farm Bureau, the Missouri Farm Bureau shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Missouri Agriculture in the Classroom program and the words "MISSOURI AGRICULTURE" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with an emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear such emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3098. KINGDOM OF CALONTIR SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1.

Any member of the Kingdom of Calontir may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Kingdom of Calontir, a subdivision of the Society for Creative Anachronism, of which the person is a member. The Kingdom of Calontir hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Kingdom of Calontir derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Kingdom of Calontir. Any member of the Kingdom of Calontir may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Kingdom of Calontir, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Kingdom of Calontir and shall bear the words "KINGDOM OF CALONTIR" in place of the words "SHOW-ME

STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Society for Creative Anachronism emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Society for Creative Anachronism emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3106. FORMER MISSOURI LEGISLATOR SPECIAL LICENSE PLATE, APPLICATION, FEE. — 1. Any individual who is a former legislator of the Missouri general assembly may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any individual who is a former legislator of the Missouri general assembly may annually apply for such license plates.

2. Upon presentation of the appropriate proof of eligibility as determined by the director and annual payment of a fifteen dollar fee in addition to the registration fee, and other documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear an appropriate emblem to be determined by the director, with the words "FORMER MISSOURI LEGISLATOR" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. No more than two sets of license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3122. FRIENDS OF KIDS WITH CANCER SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of an emblem-use authorization fee to the Friends of Kids with Cancer. The Friends of Kids with Cancer hereby authorizes the

use of its official emblem to be affixed on multi-year personalized license plates as provided in this section. Any person may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Friends of Kids with Cancer, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Friends of Kids with Cancer and shall bear the words "FRIENDS OF KIDS WITH CANCER" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Friends of Kids with Cancer emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Friends of Kids with Cancer emblem, as otherwise provided by law.

4. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3124. SPECIAL OLYMPICS MISSOURI SPECIAL LICENSE PLATES, APPLICATION, FEE.

— 1. Any person may receive special license plates as prescribed by this section for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Special Olympics Missouri. Special Olympics Missouri hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section.

2. Upon annual application and payment of a twenty-five dollar emblem-use authorization fee to Special Olympics Missouri, that organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear an emblem approved by Special Olympics Missouri and the director of the department of revenue and shall have the words "SPECIAL OLYMPICS MISSOURI" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Special Olympics Missouri emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Special Olympics Missouri emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3125. BE AN ORGAN DONOR SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any vehicle owner may apply for "Be An Organ Donor" special personalized license plates for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Upon making a twenty-five dollar annual contribution to the Organ Donor Program Fund, established pursuant to section 194.297, RSMo, the vehicle owner may apply for the "Be An Organ Donor" plate. If the contribution is made directly to the state treasurer, the state treasurer shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the "Be An Organ Donor" license plate. If the contribution is made directly to the director of revenue, the director shall note the contribution and the owner may then apply for the "Be An Organ Donor" plate. The applicant for such plate must pay a fifteen dollar fee in addition to the regular registration fees and present any other documentation required by law for each set of "Be An Organ Donor" plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

2. The "Be An Organ Donor" plate shall have the words "BE AN ORGAN DONOR" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. These plates shall be designed by the director, in consultation with the Organ Donation Advisory Committee, established pursuant to section 194.300, RSMo, to educate the public about the urgent need for organ donation and the life saving benefits of organ transplants.

4. A vehicle owner, who was previously issued a plate with the words "BE AN ORGAN DONOR" authorized by this section but who does not present a contribution receipt or make a contribution to the Organ Donor Program Fund at a subsequent time of registration, shall be issued a new plate which does not bear the words "BE AN ORGAN DONOR", as otherwise provided by law.

5. The director of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3126. FOXTROTTER — STATE HORSE SPECIAL LICENSE PLATES, APPLICATION, FEE.

— 1. Any member of the Missouri Foxtrotting Horse Breed Association may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri Foxtrotting Horse Breed Association of which the person is a member. The Missouri Foxtrotting Horse Breed Association hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Missouri Foxtrotting Horse Breed Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Foxtrotting Horse Breed Association. Any member of the Missouri Foxtrotting Horse Breed Association may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri Foxtrotting Horse Breed Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Foxtrotting Horse Breed Association and shall bear the words "FOXTROTTER-STATE HORSE" in place of the words "SHOW-ME STATE". Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

3. A vehicle owner, who was previously issued a plate with the Missouri Foxtrotting Horse Breed Association emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Foxtrotting Horse Breed Association emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3128. TO PROTECT AND SERVE SPECIAL LICENSE PLATES, APPLICATION, FEE. —

1. Any person, as defined by subsection 3 of this section, may apply for special license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any person desiring a special license plate as provided by this section shall make an application for the special license plates on a form provided by the director of revenue and furnish proof of eligibility as the director may require.

2. Upon payment of a fifteen dollar fee in addition to the registration fee and other documents which may be required by law, the department of revenue shall issue to the

vehicle owner a personalized license plate which shall bear an insignia depicting a yellow rose superimposed over the outline of a badge and shall bear the words "TO PROTECT AND SERVE" in the place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. As used in this section the term "person" shall mean:

- (1) A person wounded in the line of duty as a peace officer; or
- (2) A surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a peace officer.

4. As used in this section, the term "peace officer" has the same meaning assigned by section 590.010, RSMo.

5. The director may consult with any organization which represents the interests of any person, as defined in subsection 3 of this section when formulating the design for the special license plate described in this section.

6. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3130. MISSOURI ASSOCIATION OF STATE TROOPERS EMERGENCY RELIEF SOCIETY, SPECIAL LICENSE PLATE — EMBLEM AUTHORIZATION — USE OF CONTRIBUTION FEE, APPLICATION PROCEDURE — RULEMAKING AUTHORITY. — 1. Any member of the Missouri Association of State Troopers Emergency Relief Society, after an annual payment of an emblem-use authorization fee to the Missouri Association of State Troopers Emergency Relief Society, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Association of State Troopers Emergency Relief Society hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue as provided in this section. Any contribution to the Missouri Association of State Troopers Emergency Relief Society derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Association of State Troopers Emergency Relief Society. Any member of the Missouri Association of State Troopers Emergency Relief Society may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Missouri Association of State Troopers Emergency Relief Society, the Missouri Association of State Troopers Emergency Relief Society shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the Missouri Association of State Troopers

Emergency Relief Society and the words "The MASTERS" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the Missouri Association of State Troopers Emergency Relief Society emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Missouri Association of State Troopers Emergency Relief Society emblem, as otherwise provided by law.

4. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3131. OPTIMIST INTERNATIONAL SPECIAL LICENSE PLATES, APPLICATION, FEE. —

1. Any member of Optimist International may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Optimist International of which the person is a member. Optimist International hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Optimist International derived from this section, except reasonable administrative costs, shall be used solely for the purposes of Optimist International. Any member of Optimist International may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Optimist International, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Optimist International and shall have the words "FRIEND OF YOUTH" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Optimist International emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Optimist International emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section,

and shall design all necessary forms required by this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

301.3132. MISSOURI SOCIETY OF PROFESSIONAL ENGINEERS SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any member designated by the Missouri Society of Professional Engineers may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Missouri Society of Professional Engineers Education Foundation. The Missouri Society of Professional Engineers hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates provided in this section. Any contribution to the Missouri Society of Professional Engineers Education Foundation derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Missouri Society of Professional Engineers Education Foundation and shall be deposited into the society's education fund. Any person designated by the Missouri Society of Professional Engineers may annually apply for the use of the emblem.

2. Upon annual application and annual payment of a twenty-five dollar emblem-use contribution to the Missouri Society of Professional Engineers Education Foundation, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Missouri Society of Professional Engineers and the words "MISSOURI SOCIETY OF PROFESSIONAL ENGINEERS" in place of "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be added for the personalization of license plates issued pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Missouri Society of Professional Engineers' emblem authorized by this section but who does not provide an emblem-use authorization statement at the subsequent time of registration, shall be issued a new plate which does not bear the Missouri Society of Professional Engineers' emblem, as otherwise provided by law.

4. The director of the department of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3133. LEWIS AND CLARK EXPEDITION ANNIVERSARY SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any vehicle owner, after an annual contribution to the Missouri Travel Council, may receive special license plates commemorating the bicentennial anniversary of the Lewis and Clark expedition for any vehicle the member owns, either

solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Travel Council, in conjunction with the department of revenue, shall design the Lewis and Clark bicentennial special license plate. The background of the plate shall depict a full-color image, covering the entire plate, and lightened across two-thirds of the area so as not to hinder the readability of the license plate registration number. Such license plates shall be made with fully reflective material, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

2. Upon making a twenty-five dollar contribution to the Missouri Travel Council, the motor vehicle owner may apply for the special license plate commemorating the bicentennial anniversary of the Lewis and Clark expedition. If the contribution is made directly to the Missouri Travel Council, the Missouri Travel Council shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the Lewis and Clark special license plate. If the contribution is made directly to the director of revenue, the director shall note the contribution and the owner may then apply for the Lewis and Clark plate. The applicant for such special license plate must pay a fifteen dollar fee in addition to the regular registration fees and present any other documentation required by law for each set of Lewis and Clark plates issued pursuant to this section. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates issued pursuant to this section.

3. The director of revenue may promulgate rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

4. A vehicle owner who was previously issued a Lewis and Clark special license plate pursuant to this section, but does not provide a receipt evidencing a contribution to the Missouri Travel Council or make a contribution directly to the department of revenue at a subsequent time of registration, shall be issued a new license plate which does not commemorate the bicentennial anniversary of the Lewis and Clark expedition. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3137. ALPHA PHI OMEGA SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any current member or alumnus of the Alpha Phi Omega organizations at any college or university within this state may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to Alpha Phi Omega. Alpha Phi Omega hereby authorizes the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Alpha Phi Omega derived from this section, except reasonable administrative costs, shall be used solely for the purposes of that organization. Any member or alumnus of Alpha Phi Omega may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Alpha Phi Omega, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle.

Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Alpha Phi Omega and the words "ALPHA PHI OMEGA" shall replace the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Alpha Phi Omega emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Alpha Phi Omega emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3139. BOY SCOUTS OF AMERICA SPECIAL LICENSE PLATES, APPLICATION, FEE. —

1. Any Boy Scout of appropriate age as prescribed by law or parent of a Boy Scout may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the Boy Scouts of America Council of which the person is a member or the parent of a member. The Boy Scouts of America hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to the Boy Scouts of America derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the Boy Scouts of America. Any Boy Scout or parent of a Boy Scout may annually apply for the use of the emblem and pay the twenty-five dollar emblem-use authorization fee at any local district council in the state.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the Boy Scouts of America, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Boy Scouts of America and the words "BOY SCOUTS OF AMERICA" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Boy Scouts of America emblem authorized by this section but who does not provide an emblem-use

authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Boy Scouts of America emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3142. MILITARY KILLED IN LINE OF DUTY SPECIAL LICENSE PLATES, APPLICATION BY IMMEDIATE FAMILY MEMBERS, FEE. — 1. Any immediate family member, including step-siblings or step-children, who wishes to pay tribute to a member of the United States military who was a resident of this state and who was killed in the line of duty may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

2. Upon annual application payment of a fifteen dollar fee in addition to the registration fee, and presentation of any other documents which may be required by law or upon biennial application, payment of a thirty dollar fee in addition to the registration fee and presentation of proof of eligibility for such plates, and presentation of any other documents which may be required by law, the department of revenue may issue to the vehicle owner a personalized license plate which shall bear the initials of the member of the United States military killed while in the line of duty, a gold star on the left side of the plates, followed by a three-letter description of the relative's relation to the veteran, provided such license plate configuration is not currently in use, and which shall bear the words "WE SHALL NOT FORGET" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3143. DELTA TAU DELTA SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any current member or alumnus of the Delta Tau Delta organization at any college or university within this state may apply for special motor vehicle license plates for any

vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the appropriate organization. Delta Tau Delta hereby authorizes the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Delta Tau Delta derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the organization. Any member of Delta Tau Delta may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Delta Tau Delta, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee, and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Delta Tau Delta and shall bear the words "Delta Tau Delta" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Delta Tau Delta emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Delta Tau Delta emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3144. CAMP QUALITY SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any person may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of an emblem-use authorization fee to Camp Quality of Missouri. Any contribution given pursuant to this section shall be designated for the sole use of providing scholarships to children with cancer who are residents of the state of Missouri for attendance at any summer camp conducted by Camp Quality in the state of Missouri. Camp Quality of Missouri hereby authorizes the use of its official emblem to be affixed on single-year or multiyear personalized license plates as provided in this section. Any person may annually or biannually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to Camp Quality of Missouri, that organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual or biannual statement, payment of a fifteen

dollar fee, in addition to the registration fees, and presentation of other documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Camp Quality of Missouri and shall bear the words "CAMP QUALITY-FUN FOR KIDS WITH CANCER" in the place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Camp Quality of Missouri emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Camp Quality of Missouri emblem, as otherwise provided by law.

4. The director of the department of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3146. SEARCH AND RESCUE SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any member of the search and rescue council of Missouri, after an annual payment of an emblem-use authorization fee to the search and rescue council of Missouri, may receive special license plates for any vehicle the member owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The search and rescue council of Missouri hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. Any contribution to the search and rescue council of Missouri derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the search and rescue council of Missouri. Any member of the search and rescue council of Missouri may annually apply for the use of the emblem.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the search and rescue council of Missouri, the search and rescue council of Missouri shall issue to the vehicle owner, without further charge, an "emblem-use authorization statement", which shall be presented by the vehicle owner to the director of revenue at the time of registration. Upon presentation of the annual statement and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director of revenue shall issue to the vehicle owner a special license plate which shall bear the emblem of the search and rescue council of Missouri and the words "SEARCH AND RESCUE" in place of the words "SHOW-ME-STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner who was previously issued a plate with the search and rescue council of Missouri emblem authorized by this section, but who does not provide an

emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the search and rescue council of Missouri emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section.

301.3147. THETA CHI SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any current undergraduate or alumnus member of any chapter of Theta Chi Fraternity may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual contribution of at least twenty-five dollars to the Foundation Chapter of Theta Chi Fraternity, Inc. Theta Chi Fraternity, Inc. hereby authorizes the use of their official emblem to be affixed on multiyear personalized license plates as provided in this section. Any contribution to Theta Chi Fraternity, Inc. derived from this section, except reasonable administrative costs, shall be used solely for the purposes of that organization. Any undergraduate or alumnus member of Theta Chi Fraternity, Inc. may annually apply for the use of the organization's emblem.

2. Upon annual application and payment of twenty-five dollars to the Foundation Chapter of Theta Chi Fraternity, Inc., the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of Theta Chi Fraternity, Inc. and shall bear the words "THETA CHI FRATERNITY" in the place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for personalization of license plates pursuant to this section.

3. A vehicle owner, who has previously issued a plate with the Theta Chi Fraternity, Inc. emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not bear the Theta Chi Fraternity, Inc. emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3150. PROCEDURE FOR APPROVAL, EXCEPTIONS — TRANSFER OF MONEYS COLLECTED. — 1. An organization, other than an organization seeking a special military license plate, that seeks authorization to establish a new specialty license plate shall initially petition the department of revenue by submitting the following:

(1) An application in a form prescribed by the director for the particular specialty license plate being sought, describing the proposed specialty license plate in general terms

and have a sponsor of at least one current member of the general assembly. The application may contain written testimony for support of this specialty plate;

(2) Each application submitted pursuant to this section shall be accompanied by a list of at least two hundred potential applicants who plan to purchase the specialty plate if the specialty plate is approved pursuant to this section;

(3) An application fee, not to exceed five thousand dollars, to defray the department's cost for issuing, developing and programming the implementation of the specialty plate, if authorized; and

(4) All moneys received by the department of revenue, for the reviewing and development of specialty plates shall be deposited in the state treasury to the credit of the "Department of Revenue Specialty Plate Fund" which is hereby created. The state treasurer shall be custodian of the fund and shall make disbursements from the funds requested by the Missouri director of revenue for personal services, expenses, and equipment required to prepare, review, develop, and disseminate a new specialty plate and process the two hundred applications to be submitted once the plate is approved and to refund deposits for the application of such specialty plate, if the application is not approved by the joint committee on transportation oversight and for no other purpose.

2. At the end of each state fiscal year, the director of revenue shall:

(1) Determine the amount of all moneys deposited into the department of revenue specialty plate fund;

(2) Determine the amount of disbursements from the department of revenue specialty plate fund which were made to produce the specialty plate and process the two hundred applications; and

(3) Subtract the amount of disbursements from the income figure referred to in subdivision (1) of this subsection and deliver this figure to the state treasurer.

3. The state treasurer shall transfer an amount of money equal to the figure provided by the director of revenue from the department of revenue specialty plate fund to the state highway department fund. An unexpended balance in the department of revenue specialty plate fund at the end of the biennium not exceeding twenty-five thousand dollars shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the general revenue fund.

4. The documents and fees required pursuant to this section shall be submitted to the department of revenue by July first prior to the next regular session of the general assembly to be approved or denied by the joint committee on transportation oversight during that legislative session.

5. The department of revenue shall give notice of any proposed specialty plate in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the specialty plate on the department's official public web site, and making available copies of the specialty plate application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

6. Adequate notice conforming with all the requirements of subsection 5 of this section shall be given not less than four weeks, exclusive of weekends and holidays when the facility is closed, after the submission of the application by the organization to the department of revenue. Written or electronic testimony in support or opposition of the proposed specialty plate shall be submitted to the department of revenue by November thirtieth of the year of filing of the original proposal. All written testimony shall contain the printed name, signature, address, phone number, and e-mail address, if applicable, of the individual giving the testimony.

7. The department of revenue shall submit for approval all applications for the development of specialty plates to the joint committee on transportation oversight during a regular session of the general assembly for approval.

8. If the specialty license plate requested by an organization is approved by the joint committee on transportation oversight, the organization shall submit the proposed art design for the specialty license plate to the department as soon as practicable, but no later than sixty days after the approval of the specialty license plate. If the specialty license plate requested by the organization is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the requesting organization.

9. An emblem-use authorization fee may be charged by the organization prior to the issuance of an approved specialty plate. The organization's specialty plate proposal approved by the joint committee on transportation oversight shall state what fee is required to obtain such statement and if such fee is required annually or biennially, if the applicant has a two-year registration. An organization applying for specialty plates shall authorize the use of its official emblem to be affixed on multiyear personalized license plates within the plate area prescribed by the director of revenue and as provided in this section. Any contribution to the organization derived from the emblem-use contribution, except reasonable administrative costs, shall be used solely for the purposes of the organization. Any member of the organization or nonmember, if applicable, may annually apply for the use of the emblem, if applicable.

10. The department shall begin production and distribution of each new specialty license plate within one year after approval of the specialty license plate by the joint committee on transportation oversight.

11. The department shall issue a specialty license plate to the owner who meets the requirements for issuance of the specialty plate for any motor vehicle such owner owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight.

12. Each new or renewed application for an approved specialty license plate shall be made to the department of revenue, accompanied by an additional fee of fifteen dollars and the appropriate emblem-use authorization statement.

13. The appropriate registration fees, fifteen dollar specialty plate fee, processing fees and documents otherwise required for the issuance of registration of the motor vehicle as set forth by law must be submitted at the time the specialty plates are actually issued and renewed or as otherwise provided by law. However, no additional fee for the personalization of this plate shall be charged.

14. Once a specialty plate design is approved, a request for such plate may be made any time during a registration period. If a request is made for a specialty license plate to replace a current valid license plate, all documentation, credits, and fees provided for in this chapter when replacing a current license plate shall apply.

15. A vehicle owner who was previously issued a plate with an organization emblem authorized by this section, but who does not provide an emblem-use authorization statement at a subsequent time of registration if required, shall be issued a new plate which does not bear the organization's emblem, as otherwise provided by law.

16. Specialty license plates shall bear a design approved by the organization submitting the original application for approval by the joint committee on transportation oversight. The design shall be within the plate area prescribed by the director of revenue, and the designated organization's name or slogan shall be in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130 and as provided in this section. In addition to a design, the specialty license plates shall be in accordance with criteria and plate design set forth in this chapter.

17. The department is authorized to discontinue the issuance and renewal of a specialty license plate if the organization has stopped providing services and emblem-use

authorization statements are no longer being issued by the organization. Such organizations shall notify the department immediately to discontinue the issuance of a specialty plate.

18. The organization that requested the specialty license plate shall not redesign the specialty personalized license plate unless such organization pays the director in advance all redesigned plate fees. All plate holders of such plates must pay the replacement fees prescribed in section 301.300 for the replacement of the existing specialty plate. All other applicable license plate fees in accordance with this chapter shall be required.

301.3152. APPEAL PROCEDURE FOR DENIAL. — Any person or organization who has received a notice of denial of application for development of a specialty plate may make a request to the joint committee on transportation oversight within fifteen days of receipt of the notice for a review of the committee's determination at a hearing before the committee at a time deemed appropriate.

301.3154. FEE, AMOUNT — EXEMPTIONS. — Beginning January 1, 2005, the fee for any special license plate approved under section 21.795, RSMo, sections 301.3150 and 301.3152, and this section shall be fifteen dollars for an annual registration and thirty dollars for a biennial registration in addition to registration fees. The provisions of this section shall not apply to special military license plates. The fees for special military license plates shall be assessed as provided for by the statute creating such license plate except that no additional fee shall be charged for personalized military plates.

301.3155. AMERICAN HEART ASSOCIATION SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any supporter of the American Heart Association of appropriate age as prescribed by law may receive special license plates as prescribed by this section, for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight, after an annual payment of an emblem-use authorization fee to the American Heart Association of which the person is a supporter. The American Heart Association hereby authorizes the use of its official emblem Red Dress Icon to be affixed on multi-year personalized license plates as provided in this section. Any contribution to the American Heart Association derived from this section, except reasonable administrative costs, shall be used solely for the purposes of the American Heart Association. Any supporter of the American Heart Association may annually apply for the use of the emblem and pay the twenty-five dollar emblem-use authorization fee at any local district council in the state.

2. Upon annual application and payment of a twenty-five dollar emblem-use contribution to the American Heart Association, the organization shall issue to the vehicle owner, without further charge, an emblem-use authorization statement, which shall be presented by the owner to the department of revenue at the time of registration of a motor vehicle. Upon presentation of the annual statement, payment of a fifteen dollar fee in addition to the registration fee and documents which may be required by law, the department of revenue shall issue to the vehicle owner a personalized license plate which shall bear the emblem of the Red Dress Icon on the left side of the plate and the words "Winning Women" shall replace the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. A vehicle owner, who was previously issued a plate with the Red Dress Icon emblem authorized by this section but who does not provide an emblem-use authorization statement at a subsequent time of registration, shall be issued a new plate which does not

bear the Red Dress Icon emblem, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3999. HONORABLE DISCHARGE FROM THE MILITARY SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any person who served in the active military service in a branch of the armed services of the United States and was honorably discharged from such service may apply for special personalized license plates for any vehicle other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service and status as an honorably discharged veteran as the director may require.

2. Upon presentation of proof of eligibility and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director shall issue to the vehicle owner special personalized license plates with the words "U.S. VET" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, shall have a reflective white background with a blue and red configuration in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant. License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the vehicle may operate the vehicle for the duration of the registration in the event of the death of the qualified person. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

302.130. ISSUANCE OF TEMPORARY INSTRUCTION PERMIT, WHEN — REQUIREMENTS — DURATION — PERMIT DRIVER STICKER OR SIGN ISSUED, WHEN — RULEMAKING AUTHORITY. — 1. Any person at least fifteen years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit entitling the applicant, while having such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of twelve months, but any such person, except when operating a motorcycle or motortricycle, must be

accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, who is at least twenty-one years of age, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent, guardian, a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program who has a valid driver's license. Beginning January 1, 2001, an applicant for a temporary instruction permit shall successfully complete a vision test and a test of the applicant's ability to understand highway signs which regulate, warn or direct traffic and practical knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal guardian gives written permission by signing the application and in so signing, state they, or their designee as set forth in subsection 2 of this section, will provide a minimum of twenty hours of behind-the-wheel driving instruction. The twenty hours of behind-the-wheel driving instruction that is completed pursuant to this subsection may include any time that the holder of an instruction permit has spent operating a motor vehicle in a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or by a qualified instructor of a private drivers' education program. If the applicant for a permit is enrolled in a federal residential job training program, the instructor, as defined in subsection 5 of this section, is authorized to sign the application stating that the applicant will receive the behind-the-wheel driving instruction required by this section.

2. In the event the parent, grandparent or guardian of the person under sixteen years of age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian from being a qualified licensed operator pursuant to this section, said parent, grandparent or guardian may designate a maximum of two individuals authorized to accompany the applicant for the purpose of giving instruction in driving the motor vehicle. An authorized designee must be a licensed operator for the type of motor vehicle being operated and have attained twenty-one years of age. At least one of the designees must occupy the seat beside the applicant while giving instruction in driving the motor vehicle. The name of the authorized designees must be provided to the department of revenue by the parent, grandparent or guardian at the time of application for the temporary instruction permit. The name of each authorized designee shall be printed on the temporary instruction permit, however, the director may delay the time at which permits are printed bearing such names until the inventories of blank permits and related forms existing on August 28, 1998, are exhausted.

3. The director, upon proper application on a form prescribed by the director, in his or her discretion, may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a high school driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education even though the applicant has not reached the age of sixteen years but has passed the age of fifteen years. Such instruction permit shall entitle the applicant, when the applicant has such permit in his or her immediate possession, to operate a motor vehicle on the highways, but only when a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education is occupying a seat beside the driver.

4. The director, in his or her discretion, may issue a temporary driver's permit to an applicant who is otherwise qualified for a license permitting the applicant to operate a motor vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

5. In the event that the applicant for a temporary instruction permit described in subsection 1 of this section is a participant in a federal residential job training program, the permittee may operate a motor vehicle accompanied by a driver training instructor who holds a valid driver education endorsement issued by the department of elementary and secondary education and a valid driver's license.

6. A person at least fifteen years of age may operate a motor vehicle as part of a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program.

7. Beginning January 1, 2003, the director shall issue with every temporary instruction permit issued pursuant to subsection 1 of this section a sticker or sign bearing the words "PERMIT DRIVER". The design and size of such sticker or sign shall be determined by the director by regulation. Every applicant issued a temporary instruction permit and sticker on or after January 1, 2003, may display or affix the sticker or sign on the rear window of the motor vehicle. Such sticker or sign may be displayed on the rear window of the motor vehicle whenever the holder of the instruction permit operates a motor vehicle during his or her temporary permit licensure period.

8. **Beginning July 1, 2005, the director shall verify that an applicant for an instruction permit issued under this section is lawfully present in the United States before accepting the application. The director shall not issue an instruction permit for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any permit issued under this section.**

9. The director may adopt rules and regulations necessary to carry out the provisions of this section.

302.171. APPLICATION FOR LICENSE — FORM — CONTENT — EDUCATIONAL MATERIALS TO BE PROVIDED TO APPLICANTS UNDER TWENTY-ONE — VOLUNTARY CONTRIBUTION TO ORGAN DONATION PROGRAM — INFORMATION TO BE INCLUDED IN REGISTRY — VOLUNTARY CONTRIBUTION TO BLINDNESS ASSISTANCE. — 1. Beginning July 1, 2005, the director shall verify that an applicant for a driver's license is lawfully present in the United States before accepting the application. The director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section. An application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common law shall be permitted. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts

stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the organ donor registry and shall also specifically inform the licensee of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.

5. All appeals of denials under this section shall be made as required by section 302.311.

6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036, RSMo.

7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

302.173. DRIVER'S EXAMINATION REQUIRED, WHEN — EXCEPTIONS — PROCEDURE.

— 1. Any applicant for a license, who does not possess a valid license issued pursuant to the laws of this state, another state, or a country which has a reciprocal agreement with the state of Missouri regarding the exchange of licenses pursuant to section 302.172 shall be examined as herein provided. Any person who has failed to renew such person's license on or before the date of its expiration or within six months thereafter must take the complete examination. Any active member of the armed forces, their adult dependents or any active member of the peace corps may apply for a renewal license without examination of any kind, unless otherwise required by sections 302.700 to 302.780, provided the renewal application shows that the previous license had not been suspended or revoked. Any person honorably discharged from the armed forces of the United States who held a valid license prior to being inducted may apply for a renewal license within sixty days after such person's honorable discharge without submitting to any examination of such person's ability to safely operate a motor vehicle over the highways of this state unless otherwise required by sections 302.700 to 302.780, other than the vision test provided in section 302.175, unless the facts set out in the renewal application or record of convictions on the expiring license, or the records of the director show that there is good cause to authorize the director to require the applicant to submit to the complete examination. No applicant for a renewal license shall be required to submit to any examination of his or her ability to safely operate a motor vehicle over the highways of this state unless otherwise required by sections 302.700 to 302.780 or regulations promulgated thereunder, other than a test of the applicant's ability to understand highway signs regulating, warning or directing traffic and the vision test provided in section 302.175, unless the facts set out in the renewal application or record of convictions on the expiring license, or the records of the director show that there is good cause to authorize the director to require the applicant to submit to the complete examination. The examination shall be made available in each county. Reasonable notice of the time and place of the examination shall be given the applicant by the person or officer designated to conduct it. The complete examination shall include a test of the applicant's natural or corrected vision as prescribed in section 302.175, the applicant's ability to understand highway signs regulating, warning or directing traffic, the applicant's practical knowledge of the traffic laws of this state, and an actual demonstration of ability to exercise due care in the operation of a motor vehicle of the classification for which the license is sought. When an applicant for a license has a license from a state which has requirements for issuance of a license comparable to the Missouri requirements or a license from a country which has a reciprocal agreement with the state of Missouri regarding the exchange of licenses pursuant to section 302.172 and such license has not expired more than six months prior to the date of application for the Missouri license, the director may waive the test of the applicant's practical knowledge of the traffic laws of this state, and the requirement of actual demonstration of ability to exercise due care in the operation of a motor vehicle. If the director has reasonable grounds to believe that an applicant is suffering from some known physical or mental ailment which ordinarily would interfere with the applicant's fitness to operate a motor vehicle safely upon the highways, the director may require that the examination include a physical or mental examination by a licensed physician of the applicant's choice, at the applicant's expense, to determine the fact. The director shall prescribe regulations to ensure uniformity in the examinations and in the grading thereof and shall prescribe and furnish all forms to the members of the highway patrol and to other persons authorized to conduct examinations as may be necessary to enable the officer or person to

properly conduct the examination. The records of the examination shall be forwarded to the director who shall not issue any license hereunder if in the director's opinion the applicant is not qualified to operate a motor vehicle safely upon the highways of this state.

2. **Beginning July 1, 2005, when the examiner has reasonable grounds to believe that an individual has committed fraud or deception during the examination process, the license examiner shall immediately forward to the director all information relevant to any fraud or deception, including but not limited to, a statement of the examiner's grounds for belief that the person committed or attempted to commit fraud or deception in the written, skills, or vision examination.**

3. The director of revenue shall delegate the power to conduct the examinations required for a license or permit to any member of the highway patrol or any person employed by the highway patrol. The powers delegated to any examiner may be revoked at any time by the director of revenue upon notice.

[3.] 4. Notwithstanding the requirements of subsections 1 and [2] 3 of this section, the successful completion of a motorcycle rider training course approved pursuant to sections 302.133 to [302.138] **302.137** shall constitute an actual demonstration of the person's ability to exercise due care in the operation of a motorcycle or motortricycle, and no further driving test shall be required to obtain a motorcycle or motortricycle license or endorsement.

302.177. LICENSES, FEES, DURATION, AGE-BASED. — 1. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are at least twenty-one years of age and under the age of seventy, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of thirty dollars; except that, no license shall be issued if an applicant's license is currently suspended, taken up, canceled, revoked, or deposited in lieu of bail.

2. To all applicants for a license or renewal who are between twenty-one and sixty-nine years of age, and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of fifteen dollars; except that, no license shall be issued if an applicant's license is currently suspended, taken up, canceled, revoked, or deposited in lieu of bail.

3. All licenses issued pursuant to subsections 1 and 2 of this section shall expire on the applicant's birthday in the sixth year after issuance and must be renewed on or before the date of expiration, which date shall be shown on the license. The director shall have the authority to stagger the expiration date of driver's licenses and nondriver's licenses being issued or renewed over a six-year period.

4. To all applicants for a license or renewal to transport persons or property classified in section 302.015 who are between eighteen and twenty-one years of age or greater than sixty-nine years of age, **or, beginning September 30, 2005, to an applicant for such license containing a school bus endorsement issued pursuant to section 302.272,** and who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of fifteen dollars.

5. To all other applicants for a license or renewal less than twenty-one years of age or greater than sixty-nine years of age who submit a satisfactory application and meet the requirements set forth in sections 302.010 to 302.605, the director shall issue or renew a license upon the payment of a fee of seven dollars and fifty cents. All licenses issued pursuant to this subsection and subsection 4 of this section **or, beginning September 30, 2005, to an applicant for a license to transport persons or property which contains a school bus endorsement issued pursuant to section 302.272,** shall expire on the applicant's birthday in the third year after issuance.

6. **Beginning July 1, 2005, the director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may**

establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section.

7. The director of revenue may adopt any rules and regulations necessary to carry out the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

302.181. FORM OF LICENSE — INFORMATION SHOWN, EXCEPTION — PHOTOGRAPH NOT SHOWN, WHEN — TEMPORARY LICENSE — NONDRIVER'S LICENSE, FEE, DURATION — EXCEPTION — RULES, ADOPTION, SUSPENSION AND REVOCATION PROCEDURE. — 1. The license issued pursuant to the provisions of sections 302.010 to 302.340 shall be in such form as the director shall prescribe, but the license shall be a card made of plastic or other comparable material. All licenses shall be manufactured of materials and processes that will prohibit, as nearly as possible, the ability to reproduce, alter, counterfeit, forge, or duplicate any license without ready detection. All licenses shall bear the licensee's Social Security number, if the licensee has one, and if not, a notarized affidavit must be signed by the licensee stating that the licensee does not possess a Social Security number, or, if applicable, a certified statement must be submitted as provided in subsection 4 of this section. The license shall also bear the expiration date of the license, the classification of the license, the name, date of birth, residence address including the county of residence or a code number corresponding to such county established by the department, and brief description and colored photograph **or digitized image** of the licensee, and a facsimile of the signature of the licensee. The director shall provide by administrative rule the procedure and format for a licensee to indicate on the back of the license together with the designation for an anatomical gift as provided in section 194.240, RSMo, the name and address of the person designated pursuant to sections 404.800 to 404.865, RSMo, as the licensee's attorney in fact for the purposes of a durable power of attorney for health care decisions. No license shall be valid until it has been so signed by the licensee. If any portion of the license is prepared by a private firm, any contract with such firm shall be made in accordance with the competitive purchasing procedures as established by the state director of the division of purchasing. For all licenses issued or renewed after March 1, 1992, the applicant's Social Security number shall serve as the applicant's license number. Where the licensee has no Social Security number, or where the licensee is issued a license without a Social Security number in accordance with subsection 4 of this section, the director shall issue a license number for the licensee and such number shall also include an indicator showing that the number is not a Social Security number.

2. All film involved in the production of photographs for licenses shall become the property of the department of revenue.

3. The license issued shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed upon demand of any officer of the highway patrol, or any police officer or peace officer, or any other duly authorized person, for inspection when demand is made therefor. Failure of any operator of a motor vehicle to exhibit his or her license to any duly authorized officer shall be presumptive evidence that such person is not a duly licensed operator.

4. The director of revenue shall issue a commercial or noncommercial driver's license without a Social Security number to an applicant therefor, who is otherwise qualified to be licensed, upon presentation to the director of a certified statement that the applicant objects to the display of the Social Security number on the license. The director shall assign an identification number, that is not based on a Social Security number, to the applicant which shall be displayed on the license in lieu of the Social Security number.

5. The director of revenue shall **not** issue a license without [the] **a facial** photograph [to an applicant therefor, who is otherwise qualified to be licensed, upon presentation to the director of a statement on forms prescribed and made available by the department of revenue which states that the applicant is a member of a specified religious denomination which prohibits photographs

of members as being contrary to its religious tenets. The license shall state thereon that no photograph is required because of the religious affiliation of the licensee. The director of revenue shall establish guidelines and furnish to each circuit court such forms as the director deems necessary to comply with this subsection. The circuit court shall not charge or receive any fee or court cost for the performance of any duty or act pursuant to this subsection] **or digital image of the license applicant, except as provided pursuant to subsection 8 of this section. A photograph or digital image of the applicant's full facial features shall be taken in a manner prescribed by the director. No photograph or digital image will be taken wearing anything which cloaks the facial features of the individual.**

6. The department of revenue may issue a temporary license **or a full license** without the photograph **or with the last photograph or digital image in the department's records** to [out-of-state applicants and] members of the armed forces, except that where such temporary license is issued it shall be valid only until the applicant shall have had time to appear and have his or her picture taken and a license with his or her photograph issued.

7. The department of revenue shall issue upon request a nondriver's license card containing essentially the same information **and photograph or digital image, except as provided pursuant to subsection 8 of this section**, as the driver's license upon payment of six dollars [if the applicant is under the age of sixty-five. An applicant who is sixty-five years of age or older may purchase a nondriver's license card without a photograph for one dollar or a nondriver's license card with a photograph for six dollars]. All nondriver's licenses shall expire on the applicant's birthday in the sixth year after issuance. A person who has passed his or her seventieth birthday shall upon application be issued a nonexpiring nondriver's license card. The nondriver's license card shall be used for identification purposes only and shall not be valid as a license.

8. **If otherwise eligible, an applicant may receive a driver's license or nondriver's license without a photograph or digital image of the applicant's full facial features except that such applicant's photograph or digital image shall be taken and maintained by the director and not printed on such license. In order to qualify for a license without a photograph or digital image pursuant to this section the applicant must:**

(1) **Present a form provided by the department of revenue requesting the applicant's photograph be omitted from the license or nondriver's license due to religious affiliations. The form shall be signed by the applicant and another member of the religious tenant verifying the photograph or digital image exemption on the license or nondriver's license is required as part of their religious affiliation. The required signatures on the prescribed form shall be properly notarized.**

(2) **Provide satisfactory proof to the director that the applicant has been a U.S. citizen for at least five years and a resident of this state for at least one year, except that an applicant moving to this state possessing a valid drivers license from another state without a photograph, shall be exempt from the one year state residency requirement. The director may establish rules necessary to determine satisfactory proof of citizenship and residency pursuant to this section.**

(3) **Applications for a driver's license or nondriver's license without a photograph or digital image must be made in person at a license office determined by the director. The director is authorized to limit the number of offices that may issue a driver's or nondriver's license without a photograph or digital image pursuant to this section.**

9. The department of revenue shall make available, at one or more locations within the state, an opportunity for individuals to have their full facial photograph taken by an employee of the department of revenue, or their designee, who is of the same sex as the individual being photographed, in a segregated location.

[8.] 10. **Beginning July 1, 2005, the director shall not issue a driver's license or a nondriver's license for a period that exceeds an applicant's lawful presence in the United States. The director may, by rule or regulation, establish procedures to verify the lawful**

presence of the applicant and establish the duration of any driver's license or nondriver's license issued under this section.

11. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it is promulgated pursuant to the provisions of chapter 536, RSMo.

302.225. SURRENDER OF LICENSE — RECORD OF CONVICTIONS, KEPT WHERE, BY WHOM — REVOCATION BY CITY OFFICIALS PROHIBITED. — 1. Every court having jurisdiction over offenses committed under sections 302.010 to 302.780, or any other law of this state, or county or municipal ordinance, regulating the operation of vehicles on highways **or any other offense in which the commission of such offense involves the use of a motor vehicle, including felony convictions**, shall, within [ten] **seven** days thereafter, forward to the [Missouri state highway patrol, or at the written direction of the Missouri state highway patrol, to the] department of revenue, in a manner approved by the director of the department of public safety a record of any plea or finding of guilty of any person in the court for a violation of sections 302.010 to 302.780 or for any moving traffic violation under the laws of this state or county or municipal ordinances. The record related to offenses involving alcohol, controlled substances, or drugs shall be entered in the Missouri uniform law enforcement system records. **The director of revenue shall enter the conviction information into the appropriate computer systems and transmit the conviction information as required in 49 CFR Part 384, or as amended by the Secretary of the United States Department of Transportation.** The record of all convictions involving the assessment of points as provided in section 302.302 and convictions involving a commercial motor vehicle as defined in section 302.700 furnished by a court to the [highway patrol and not to the] department of revenue shall be forwarded by the [highway patrol] **department of revenue** within fifteen days of receipt to the [director of revenue] **Missouri state highway patrol. The record related to offenses involving alcohol, controlled substances, or drugs, or in which the Missouri state highway patrol was the arresting agency shall be entered into the Missouri uniform law enforcement system records.**

2. Whenever any person is convicted of any offense or series of offenses for which sections 302.010 to 302.340 makes mandatory the suspension or revocation of the license of such person by the director of revenue, the circuit court in which such conviction is had shall require the surrender to it of all licenses, then held by the person so convicted, and the court shall within [ten] **seven** days thereafter forward the same, together with a record of the conviction, to the director of revenue.

3. No municipal judge or municipal official shall have power to revoke any license.

302.230. PENALTY FOR FALSE STATEMENT OR AFFIDAVIT. — Any person who makes a false unsworn statement or affidavit or knowingly swears or affirms falsely as to any matter or thing required by sections 302.010 to 302.540 shall be deemed guilty of a **class A** misdemeanor [and punishable only by a fine]. No person **who pleads guilty or nolo contendere, or is** found guilty of making a false statement or affidavit shall be licensed to operate a motor vehicle for a period of one year after such **plea, finding or conviction.**

302.233. FRAUD IN OBTAINING A LICENSE OR PERMIT, PENALTY. — 1. **Notwithstanding any other provision of law, any person who commits or assists another individual in committing fraud or deception during any examination process required by sections 302.010 to 302.782, or who knowingly conceals a material fact or provides information which contains or is substantiated with false or fraudulent information or documentation, or otherwise commits a fraud in an application for an instruction permit, driver's license, nondriver's license, or commercial driver's license or permit is guilty of a class A misdemeanor.**

2. An applicant who pleads guilty or nolo contendere to, or is found guilty of a violation of this section shall not be licensed to operate a motor vehicle or commercial motor vehicle for a period of one year after such plea, finding, or conviction.

3. Any person assisting an applicant who pleads guilty or nolo contendere to, or is found guilty of a violation of this section shall have his or her existing motor vehicle or commercial motor vehicle license revoked and lose all driving privileges for a period of one year after such plea, finding, or conviction.

302.272. SCHOOL BUS PERMIT, QUALIFICATIONS — PERMIT RENEWAL, WHEN — FEE — TEMPORARY PERMITS — GROUNDS FOR REFUSAL TO ISSUE OR RENEW PERMIT — CRIMINAL RECORD CHECKS OF APPLICANTS. — 1. No person shall operate any school bus owned by or under contract with a public school or the state board of education unless such driver has qualified for a school bus [permit] **endorsement** under this section and complied with the pertinent rules and regulations of the department of revenue **and any final rule issued by the secretary of the United States Department of Transportation or has a valid school bus endorsement on a valid commercial driver's license issued by another state.** A school bus [permit] **endorsement** shall be issued to any applicant who meets the following qualifications:

(1) The applicant has a valid state license issued under this chapter or has a license valid in any other state;

(2) The applicant is at least twenty-one years of age;

(3) The applicant has passed a medical examination, including vision and hearing tests, as prescribed by the director of revenue and, if the applicant is at least seventy years of age, the applicant shall pass the medical examination annually to maintain or renew the [permit] **endorsement**; and

(4) The applicant has successfully passed an examination for the operation of a school bus as prescribed by the director of revenue. The examination shall include, but need not be limited to, a written skills examination of applicable laws, rules and procedures, **including any examinations prescribed by the secretary of the United States Department of Transportation**, and a driving test in the type of vehicle to be operated. The test shall be completed in the appropriate class of vehicle to be driven. For purposes of this section classes of school buses shall comply with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570).

2. Except as otherwise provided in this section, a school bus [permit] **endorsement** shall be renewed every three years and shall require the applicant to provide a medical examination as specified in subdivision (3) of subsection 1 of this section and to successfully pass a written skills examination as prescribed by the director of revenue in consultation with the department of elementary and secondary education. If the applicant is at least seventy years of age, the school bus [permit] **endorsement** shall be renewed annually, and the applicant shall successfully pass the examination prescribed in subdivision (4) of subsection 1 of this section prior to receiving the renewed [permit] **endorsement**. The director may waive the written skills examination on renewal of a school bus [permit] **endorsement** upon verification of the applicant's successful completion within the preceding twelve months of a training program which has been approved by the director in consultation with the department of elementary and secondary education and which is at least eight hours in duration with special instruction in school bus driving.

3. The fee for a new or renewed school bus [permit] **endorsement** shall be three dollars.

4. Upon the applicant's completion of the requirements of subsections 1, 2 and 3 of this section, the director of revenue [shall] **may** issue a temporary school bus permit to the applicant until such time as a [permanent] school bus [permit] **endorsement** shall be issued following the record clearance as provided in subsection 6 of this section.

5. The director of revenue, to the best of the director's knowledge, shall not issue or renew a school bus [permit] **endorsement** to any applicant:

(1) Whose driving record shows that such applicant's privilege to operate a motor vehicle has been suspended, revoked or disqualified or whose driving record shows a history of moving vehicle violations;

(2) Who has pled guilty to or been found guilty of any felony or misdemeanor for violation of drug regulations as defined in chapter 195, RSMo; of any felony for an offense against the person as defined by chapter 565, RSMo, or any other offense against the person involving the endangerment of a child as prescribed by law; of any misdemeanor or felony for a sexual offense as defined by chapter 566, RSMo; of any misdemeanor or felony for prostitution as defined by chapter 567, RSMo; of any misdemeanor or felony for an offense against the family as defined in chapter 568, RSMo; of any felony or misdemeanor for a weapons offense as defined by chapter 571, RSMo; of any misdemeanor or felony for pornography or related offense as defined by chapter 573, RSMo; or of any similar crime in any federal, state, municipal or other court of similar jurisdiction of which the director has knowledge;

(3) Who has pled guilty to or been found guilty of any felony involving robbery, arson, burglary or a related offense as defined by chapter 569, RSMo; or any similar crime in any federal, state, municipal or other court of similar jurisdiction within the preceding ten years of which the director has knowledge.

6. The [department of social services or the] Missouri highway patrol[, whichever has access to applicable records,] shall provide a record of clearance or denial of clearance for any applicant for a school bus [permit] **endorsement** for the convictions specified in subdivisions (2) and (3) of subsection 5 of this section. The Missouri highway patrol in providing the record of clearance or denial of clearance for any such applicant is authorized to obtain from the Federal Bureau of Investigation any information which might aid the Missouri highway patrol in providing such record of clearance or denial of clearance. The [department of social services or the] Missouri highway patrol shall provide the record of clearance or denial of clearance within thirty days of the date requested, relying on information available at that time, except that the [department of social services or the] Missouri highway patrol shall provide any information subsequently discovered to the department of revenue.

7. **For purposes of obtaining the record of clearance or denial for convictions specified in subdivisions (2) and (3) of subsection 5 of this section, the applicant for a school bus endorsement shall submit two sets of fingerprints. One set of fingerprints shall be used by the highway patrol in order to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.**

8. **The applicant shall pay the fee for the state criminal history information pursuant to section 43.530, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for the school bus endorsement pursuant to this section. The director shall distribute the fees collected for the state and federal criminal histories to the highway patrol.**

9. The director may adopt any rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

10. Except as otherwise provided in this section, an applicant who possesses a valid driver's license from another state with a valid school bus endorsement and who is otherwise qualified to receive a school bus endorsement in this state, shall be issued a school bus permit. The requirements to obtain and retain such permit shall be identical to those requirements for a school bus endorsement issued pursuant to this section.

302.273. FEDERAL RULE COMPLIANCE FOR BUS DRIVERS. — 1. Notwithstanding any provisions of section 302.272, any individual who operates a school bus as that term is defined in 49 CFR Part 383, section 383.5, shall meet the requirements for and be issued a school bus endorsement as required by the secretary pursuant to 49 CFR, part 383, section 383.123.

2. The director is authorized to promulgate any rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

302.302. POINT SYSTEM — ASSESSMENT FOR VIOLATION — ASSESSMENT OF POINTS STAYED, WHEN, PROCEDURE. — 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

- (1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points
(except any violation of municipal stop sign ordinance where no accident is involved. 1 point)
- (2) Speeding
 - In violation of a state law. 3 points
 - In violation of a county or municipal ordinance 2 points
- (3) Leaving the scene of an accident in violation of section 577.060, RSMo 12 points
In violation of any county or municipal ordinance. 6 points
- (4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo 4 points
In violation of a county or municipal ordinance 2 points
- (5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:
 - (a) For the first conviction 2 points
 - (b) For the second conviction. 4 points
 - (c) For the third conviction 6 points
- (6) Operating with a suspended or revoked license prior to restoration of operating privileges 12 points
- (7) Obtaining a license by misrepresentation 12 points
- (8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs. 8 points
- (9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent or more by weight 12 points
- (10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight

In violation of state law. 8 points
 In violation of a county or municipal ordinance or federal law or regulation 8 points
 (11) Any felony involving the use of a motor vehicle. 12 points
 (12) Knowingly permitting unlicensed operator to operate a motor vehicle . . . 4 points
 (13) For a conviction for failure to maintain financial responsibility pursuant
 to county or municipal ordinance or pursuant to section 303.025, RSMo 4 points

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700 **or a violation committed by an individual who has been issued a commercial driver's license or is required to obtain a commercial driver's license in this state or any other state**, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

302.309. RETURN OF LICENSE, WHEN — LIMITED DRIVING PRIVILEGE, WHEN GRANTED, APPLICATION, WHEN DENIED — JUDICIAL REVIEW OF DENIAL BY DIRECTOR OF REVENUE — RULEMAKING. — 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs; or
- (e) Any other circumstance the court or director finds would create an undue hardship on the operator;

the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) The court order or the director's grant of the limited driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(5) Except as provided in subdivision (6) of this subsection, no person is eligible to receive a limited driving privilege who at the time of application for a limited driving privilege has previously been granted such a privilege within the immediately preceding five years, or whose license has been suspended or revoked for the following reasons:

- (a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an

attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in section 577.060, RSMo;

(e) Due to a revocation for the first time for failure to submit to a chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if such person has not completed the first ninety days of such revocation;

(f) Violation more than once of the provisions of section 577.041, RSMo, or a similar implied consent law of any other state; **or**

(g) [Disqualification of a commercial driver's license pursuant to sections 302.700 to 302.780, however, nothing in this subsection shall prevent a person holding a commercial driver's license who is suspended or revoked as a result of an action occurring while not driving a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an operator of a personal vehicle from applying for a limited driving privilege to operate a commercial vehicle, if otherwise eligible for such limited privilege; or

(h)] Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed such revocation.

(6) No person who possesses a commercial driver's license shall receive a limited driving privilege issued for the purpose of operating a commercial motor vehicle if such person's driving privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial motor vehicle provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege.

(7) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least three years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least two years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges

pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

302.345. DIVERSION PROGRAM PARTICIPATION PROHIBITED, WHEN. — Notwithstanding any other provision of law, no federal, state, county, municipal, or local court shall defer imposition of judgment, suspend imposition of sentence, or allow an individual who possesses a commercial driver's license or is required to possess a commercial driver's license issued pursuant to chapter 302, RSMo, or the laws of another state, to enter into a diversion program that would prevent a conviction for any violation, in any type of motor vehicle, of a federal, state, county, municipal, or local traffic control law from appearing on the driver's record maintained by the director of revenue.

302.347. FEDERAL RECORD-KEEPING RULE TO BE ADOPTED. — The director of revenue shall adopt the materials incorporated by reference and record keeping requirements as prescribed in 49 CFR Part 384, or as amended by the secretary.

302.700. CITATION OF LAW — DEFINITIONS. — 1. Sections 302.700 to 302.780 may be cited as the "Uniform Commercial Driver's License Act".

2. When used in sections 302.700 to 302.780, the following words and phrases mean:

(1) "Alcohol", any substance containing any form of alcohol, including, but not limited to, ethanol, methanol, propanol and isopropanol;

(2) "Alcohol concentration", the number of grams of alcohol per one hundred milliliters of blood or the number of grams of alcohol per two hundred ten liters of breath or the number of grams of alcohol per sixty-seven milliliters of urine;

(3) "Commercial driver's instruction permit", a permit issued pursuant to section 302.720;

(4) "Commercial driver's license", a license issued by this state to an individual which authorizes the individual to operate a commercial motor vehicle;

(5) "Commercial driver's license information system", the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers;

(6) "Commercial motor vehicle", a motor vehicle designed or used to transport passengers or property:

(a) If the vehicle has a gross combination weight rating of twenty-six thousand one or more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand one pounds or more;

(b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating as determined by federal regulation;

(c) If the vehicle is designed to transport [more than fifteen] **sixteen or more** passengers, including the driver; or

(d) If the vehicle is transporting hazardous materials and is required to be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801 et seq.);

(7) "Controlled substance", any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed in schedules I through V of 21 CFR part 1308, as they may be revised from time to time;

(8) "Conviction", an unvacated adjudication of guilt, **including pleas of guilt and nolo contendere**, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or prorated;

(9) "Director", the director of revenue or his authorized representative;

(10) "Disqualification", [a withdrawal of the privilege to drive a commercial motor vehicle;]
means any of the following three actions:

(a) **The suspension, revocation, or cancellation of a commercial driver's license;**

(b) **Any withdrawal of a person's privileges to drive a commercial motor vehicle by a state as the result of a violation of federal, state, county, municipal, or local law relating to motor vehicle traffic control or violations committed through the operation of motor vehicles, other than parking, vehicle weight, or vehicle defect violations;**

(c) **A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 CFR Part 383.52 or Part 391;**

(11) "Drive", to drive, operate or be in physical control of a commercial motor vehicle;

(12) "Driver", any person who drives, operates, or is in physical control of a [commercial] motor vehicle, or who is required to hold a commercial driver's license;

(13) "Driving under the influence of alcohol", the commission of any one or more of the following acts [in a commercial motor vehicle]:

(a) Driving a commercial motor vehicle with the alcohol concentration of four one-hundredths of a percent or more as prescribed by the secretary or such other alcohol concentration as may be later determined by the secretary by regulation;

(b) Driving **a commercial or noncommercial motor vehicle** while intoxicated in violation of any federal or state law, or in violation of a county or municipal ordinance;

(c) Driving **a commercial or noncommercial motor vehicle** with excessive blood alcohol content in violation of any federal or state law, or in violation of a county or municipal ordinance;

(d) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance; or

(e) Having any state, county or municipal alcohol-related enforcement contact, as defined in subsection 3 of section 302.525; **provided that any suspension or revocation pursuant to section 302.505, committed in a noncommercial motor vehicle by an individual twenty-one years of age or older shall have been committed by the person with an alcohol concentration of at least eight-hundredths of one percent or more, or in the case of an individual who is less than twenty-one years of age, shall have been committed by the person with an alcohol concentration of at least two-hundredths of one percent or more, and if committed in a commercial motor vehicle, a concentration of four-hundredths of one percent or more;**

(14) "Driving under the influence of a controlled substance", the commission of any one or more of the following acts in a commercial **or noncommercial** motor vehicle:

(a) Driving a commercial **or noncommercial** motor vehicle while under the influence of any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I through V of 21 CFR part 1308, as they may be revised from time to time;

(b) Driving a commercial **or noncommercial** motor vehicle while in a drugged condition in violation of any federal or state law or in violation of a county or municipal ordinance; or

(c) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance;

(15) "Employer", any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns a driver to operate such a vehicle;

(16) "Farm vehicle", a commercial motor vehicle controlled and operated by a farmer used exclusively for the transportation of agricultural products, farm machinery, farm supplies, or a combination of these, within one hundred fifty miles of the farm, other than one which requires placarding for hazardous materials as defined in this section, or used in the operation of a common or contract motor carrier, except that a farm vehicle shall not be a commercial motor vehicle when the total combined gross weight rating does not exceed twenty-six thousand one pounds when transporting fertilizers as defined in subdivision (20) of this subsection;

(17) **"Fatality", the death of a person as a result of a motor vehicle accident;**

(18) "Felony", any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one year;

[(18)] (19) "Gross combination weight rating" or "GCWR", the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon;

[(19)] (20) "Gross vehicle weight rating" or "GVWR", the value specified by the manufacturer as the loaded weight of a single vehicle;

[(20)] (21) "Hazardous materials", hazardous materials as specified in Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.). Fertilizers, including but not limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel, shall not be considered hazardous materials when transported by a farm vehicle provided all other provisions of this definition are followed;

(22) **"Imminent hazard", the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begins to lessen the risk of that death, illness, injury, or endangerment;**

(23) **"Issuance", the initial licensure, license transfers, license renewals, and license upgrades;**

[(21)] (24) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks;

(25) **"Noncommercial motor vehicle", a motor vehicle or combination of motor vehicles not defined by the term "commercial motor vehicle" in this section;**

[(22)] (26) "Out of service", a temporary prohibition against the operation of a commercial motor vehicle by a particular driver, or the operation of a particular commercial motor vehicle, or the operation of a particular motor carrier;

[(23)] (27) "Out-of-service order", a declaration by the Federal Highway Administration, or any authorized enforcement officer of a federal, state, Commonwealth of Puerto Rico, Canadian, Mexican or any local jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier operation, is out of service;

(28) **"School bus", a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to**

and from school-sponsored events. School bus does not include a bus used as a common carrier as defined by the secretary;

[(24)] (29) "Secretary", the Secretary of Transportation of the United States;

[(25)] (30) "Serious traffic violation", driving a commercial motor vehicle in such a manner that the driver receives a conviction for **the following offenses or driving a noncommercial motor vehicle when the driver receives a conviction for the following offenses and the conviction results in the suspension or revocation of the driver's license or noncommercial motor vehicle driving privilege:**

(a) Excessive speeding, as defined by the secretary by regulation;

(b) Careless, reckless or imprudent driving which includes, but shall not be limited to, any violation of section 304.016, RSMo, any violation of section 304.010, RSMo, or any other violation of **federal or** state law, or any county or municipal ordinance while driving a commercial motor vehicle in a willful or wanton disregard for the safety of persons or property, or improper or erratic traffic lane changes, or following the vehicle ahead too closely, but shall not include careless and imprudent driving by excessive speed;

(c) A violation of any **federal or** state law or county or municipal ordinance regulating the operation of motor vehicles arising out of an accident or collision which resulted in death to any person, other than a parking violation; [or]

(d) **Driving a commercial motor vehicle without obtaining a commercial driver's license in violation of any federal or state or county or municipal ordinance;**

(e) **Driving a commercial motor vehicle without a commercial driver's license in the driver's possession in violation of any federal or state or county or municipal ordinance. Any individual who provides proof to the court which has jurisdiction over the issued citation that the individual held a valid commercial driver's license on the date that the citation was issued, shall not be guilty of this offense;**

(f) **Driving a commercial motor vehicle without the proper commercial driver's license class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported in violation of any federal or state law or county or municipal ordinance; or**

(g) Any other violation of a **federal or** state law or county or municipal ordinance regulating the operation of motor vehicles, other than a parking violation, as prescribed by the secretary by regulation;

[(26)] (31) "State", a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Mexico, and any province of Canada;

[(27)] (32) "United States", the fifty states and the District of Columbia.

302.720. OPERATION WITHOUT LICENSE PROHIBITED, EXCEPTIONS — INSTRUCTION PERMIT, USE, DURATION, FEE — LICENSE, TEST REQUIRED, CONTENTS, FEE — DIRECTOR TO PROMULGATE RULES AND REGULATIONS FOR CERTIFICATION OF THIRD-PARTY TESTERS — CERTAIN PERSONS PROHIBITED FROM OBTAINING LICENSE, EXCEPTIONS. — 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In

the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary. Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the secretary.

(1) The written and driving tests shall be held at such times and in such places as the superintendent may designate. A twenty-five dollar examination fee shall be paid by the applicant upon completion of any written or driving test. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester. Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

(3) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary, such person shall be required to take the written test for such endorsement. A twenty-five dollar examination fee shall be paid for upon completion of such tests.

3. A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

4. Beginning July 1, 2005, the director shall not issue an instruction permit under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

302.725. DRIVING WITHOUT COMMERCIAL DRIVER'S LICENSE, PENALTY. — Any person who drives a commercial motor vehicle without the proper class of license or applicable

endorsements valid for the type of vehicle being operated, or a commercial driver's instruction permit, or a receipt which indicates the driver is qualified to drive a commercial motor vehicle, [or while driving privileges are suspended, revoked, or canceled, or while disqualified from operating a commercial motor vehicle,] or who violates license restrictions in any state, **or driving a commercial motor vehicle without a commercial driver's license in his or her possession** shall be guilty of a class A misdemeanor. **Any individual who provides proof to the court which has jurisdiction over the issued citation by the date the individual must appear in court or pay any fine for such a violation that the individual held a valid commercial driver's license on the date the citation was issued shall not be guilty of this offense.** No court shall suspend the imposition of sentence as to such person nor sentence such person to a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Upon receipt of such conviction the director shall [revoke] **disqualify** such person's privilege to drive a commercial motor vehicle [for a period of two years] **pursuant to section 302.755.**

302.727. DRIVING A COMMERCIAL MOTOR VEHICLE WHILE REVOKED, CRIME OF, PENALTY. — 1. A person commits the crime of driving a commercial motor vehicle while revoked if such person operates a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, the driver's commercial driver license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle.

2. Any person convicted of driving a commercial motor vehicle while revoked is guilty of a class A misdemeanor. Any person with no prior alcohol-related enforcement contacts as defined in section 302.525, convicted a fourth or subsequent time of driving a commercial motor vehicle while revoked or a county or municipal ordinance of driving a commercial motor vehicle while suspended or revoked where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior three driving a commercial motor vehicle while revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses; and any person with a prior alcohol-related enforcement contact as defined in section 302.525, convicted a third or subsequent time of driving a commercial motor vehicle while revoked or a county or municipal ordinance of driving a commercial motor vehicle while suspended or revoked where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, and where the prior two driving a commercial motor vehicle while revoked offenses occurred within ten years of the date of occurrence of the present offense and where the person received and served a sentence of ten days or more on such previous offenses is guilty of a class D felony. No court shall suspend the imposition of sentence as to such a person nor sentence such person to pay a fine in lieu of a term of imprisonment, nor shall such person be eligible for parole or probation until he or she has served a minimum of forty-eight consecutive hours of imprisonment, unless as a condition of such parole or probation, such person performs at least ten days involving at least forty hours of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. Driving a commercial motor vehicle while revoked is a class D felony on the second or subsequent conviction pursuant to section 577.010, RSMo, or a fourth or subsequent conviction for any other offense.

302.735. APPLICATION FOR COMMERCIAL LICENSE, CONTENTS, FEE, EXPIRATION, DURATION, DUPLICATE LICENSE — NEW RESIDENT, APPLICATION DATES — FALSIFICATION OF INFORMATION, INELIGIBILITY FOR LICENSE, WHEN. — 1. An application shall not be taken from a nonresident after September 30, 2005. The application for a commercial driver's license shall include, but not be limited to, the **applicant's** legal name, mailing and residence address, if different, a physical description of the person, including sex, height, weight and eye color, the person's Social Security number, date of birth and any other information deemed appropriate by the director. **The application shall also require, beginning September 30, 2005, the applicant to provide the names of all states where the applicant has been previously licensed to drive any type of motor vehicle during the preceding ten years.**

2. The application for a commercial driver's license or renewal shall be accompanied by the payment of a fee of forty dollars. The fee for a duplicate commercial driver's license shall be twenty dollars. A commercial driver's license shall expire on the applicant's birthday in the sixth year after issuance and must be renewed on or before the date of expiration. The director shall have the authority to stagger the issuance or renewal of commercial driver's license applicants over a six-year period. When a person changes such person's name an application for a duplicate license shall be made to the director of revenue. When a person changes such person's mailing address or residence the applicant shall notify the director of revenue of said change, however, no application for a duplicate license is required. To all applicants for a commercial license or renewal who are between eighteen and twenty-one years of age and seventy years of age and older, the application shall be accompanied by a fee of twenty dollars. A commercial license issued pursuant to **this section** to an applicant less than twenty-one years of age and seventy years of age and older **or, beginning September 30, 2005, to an applicant for a commercial driver's license containing a school bus or hazardous materials endorsement** shall expire on the applicant's birthday in the third year after issuance.

3. Within thirty days after moving to this state, the holder of a commercial driver's license shall apply for a commercial driver's license in this state. The applicant shall meet all other requirements of sections 302.700 to 302.780, except that the director may waive the driving test for a commercial driver's license as required in section 302.720 if the applicant for a commercial driver's license has a valid commercial driver's license from a state which has requirements for issuance of such license comparable to those in this state.

4. Any person who falsifies any information in an application or test for a commercial driver's license shall not be licensed to operate a commercial motor vehicle, or the person's commercial driver's license shall be canceled, for a period of one year after the director discovers such falsification.

5. Beginning July 1, 2005, the director shall not issue a commercial driver's license under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. If lawful presence is granted for a temporary period, no commercial driver's license shall be issued. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant and establish the duration of any commercial driver's license issued under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

302.740. LICENSE, MANUFACTURE OF, REQUIREMENTS — DRIVING INFORMATION TO BE OBTAINED PRIOR TO ISSUE OF LICENSE, NOTICE TO COMMERCIAL DRIVER LICENSE INFORMATION SYSTEM, WHEN. — 1. The commercial driver's license shall be manufactured of materials and processes that will prohibit as nearly as possible, the ability to reproduce, alter, counterfeit, forge, or duplicate any license without ready detection. Such license shall include, but not be limited to, the following information: a colored photograph of the person, the legal name and address of the person, a physical description of the person, including sex, height, weight and eye color, the person's Social Security number or such other number or identifier

deemed appropriate by the director or the secretary, the date of birth, class or type of commercial motor vehicle or vehicles which the person is authorized to drive, the name of this state, and the words "COMMERCIAL DRIVER'S LICENSE" or "CDL", the dates of issuance and expiration, the person's signature and such other information as the director prescribes.

2. Before issuing a commercial driver's license, the director shall obtain driving record information from sources including, but not limited to, the national driver's register [or], the commercial driver's license information system [of], **and any state driver's licensing system in which the person has been licensed; except that the director shall only be required to obtain the complete driving record from each state the person has ever been licensed in when such person is issued an initial commercial driver's license or renews his or her commercial driver's license for the first time. The director shall maintain a notation in the driving record system of the date when he or she has obtained the driving records from all other states which the person has been licensed.**

3. Within ten days after issuing a commercial driver's license, the director shall notify the commercial driver's license information system of such fact, providing all information required to ensure identification of the person. For the purpose of this subsection, the date of issuance shall be the date the commercial driver's license is mailed to the applicant.

4. The commercial driver's license shall indicate the class of vehicle the person may drive and any applicable endorsements or restrictions. Commercial driver's license classifications, endorsements and restrictions shall be in compliance with the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) and those prescribed by the director. **The commercial driver's license driving record shall contain a complete history of the driver, including information and convictions from previous states of licensure.**

302.755. VIOLATIONS, DISQUALIFICATION FROM DRIVING, DURATION, PENALTIES — REAPPLICATION PROCEDURE. — 1. A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted of a first violation of:

(1) Driving a [commercial] motor vehicle under the influence of alcohol or a controlled substance;

(2) **Driving a commercial motor vehicle which causes a fatality through the negligent operation of the commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter, homicide by motor vehicle, and negligent homicide;**

(3) **Driving a commercial motor vehicle while revoked pursuant to section 302.727;**

(4) Leaving the scene of an accident involving a commercial **or noncommercial** motor vehicle operated by the person;

[(3)] (5) Using a commercial **or noncommercial** motor vehicle in the commission of any felony, as defined in section 302.700, **except a felony as provided in subsection 4 of this section.**

2. If any of the violations described in subsection 1 of this section occur while transporting a hazardous material the person is disqualified for a period of not less than three years.

3. Any person is disqualified from operating a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in subsection 1 of this section, or any combination of those offenses, arising from two or more separate incidents. The director may issue rules and regulations, in accordance with guidelines established by the secretary, under which a disqualification for life under this section may be reduced to a period of not less than ten years.

4. Any person is disqualified from driving a commercial motor vehicle for life who uses a commercial **or noncommercial** motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

5. Any person is disqualified from operating a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or one hundred twenty days

if convicted of three serious traffic violations, [committed in a commercial motor vehicle] arising from separate incidents occurring within a three-year period.

6. Any person found to be operating a commercial motor vehicle while having any measurable alcohol concentration shall immediately be issued a continuous twenty-four-hour out-of-service order by a law enforcement officer in this state.

7. Any person who is convicted of operating a commercial motor vehicle [during a continuous twenty-four-hour period] beginning at the time of issuance of the out-of-service order **until its expiration** is guilty of a class A misdemeanor.

8. Any person convicted for the first time of driving while out of service shall be disqualified from driving a commercial motor vehicle for a period of ninety days.

9. Any person convicted of driving while out of service on a second occasion during any ten-year period, involving separate incidents, shall be disqualified for a period of one year.

10. Any person convicted of driving while out of service on a third or subsequent occasion during any ten-year period, involving separate incidents, shall be disqualified for a period of three years.

11. Any person convicted of a first violation of an out-of-service order while transporting hazardous materials or while operating a motor vehicle designed to transport [more than fifteen] **sixteen or more** passengers, including the driver, is disqualified for a period of one hundred eighty days.

12. Any person convicted of any subsequent violation of an out-of-service order in a separate incident within ten years after a previous violation, while transporting hazardous materials or while operating a motor vehicle designed to transport fifteen passengers, including the driver, is disqualified for a period of three years.

13. Any person convicted of any other offense as specified by regulations promulgated by the Secretary of Transportation shall be disqualified in accordance with such regulations.

14. After suspending, revoking, canceling or disqualifying a driver, the director shall update records to reflect such action and notify a nonresident's licensing authority and the commercial driver's license information system within ten days **in the manner prescribed in 49 CFR Part 384, or as amended by the secretary.**

15. Any person disqualified from operating a commercial motor vehicle pursuant to subsection 1, 2, 3 or 4 of this section shall have such commercial driver's license canceled, and upon conclusion of the period of disqualification shall take the written and driving tests and meet all other requirements of sections 302.700 to 302.780. Such disqualification and cancellation shall not be withdrawn by the director until such person reapplies for a commercial driver's license in this or any other state after meeting all requirements of sections 302.700 to 302.780.

16. The director shall disqualify a driver upon receipt of notification that the secretary has determined a driver to be an imminent hazard pursuant to 49 CFR, Part 383.52. Due process of a disqualification determined by the secretary pursuant to this section shall be held in accordance with regulations promulgated by the secretary. The period of disqualification determined by the secretary pursuant to this section shall be served concurrently to any other period of disqualification which may be imposed by the director pursuant to this section. Both disqualifications shall appear on the driving record of the driver.

302.756. VIOLATION OF OUT-OF-SERVICE ORDER BY DRIVER OR EMPLOYER KNOWING DRIVER IS IN VIOLATION, CIVIL PENALTIES. — 1. Notwithstanding any other provision of law to the contrary, any driver who violates or fails to comply with an out-of-service order is subject to a civil penalty [of one thousand dollars] **not to exceed an amount as determined by the secretary pursuant to 49 CFR Part 383, or as amended by the secretary,** in addition to disqualification as provided by law. Any civil penalty established in this section shall not become effective and enforced until October 1, 1996.

2. Any employer who violates an out-of-service order, or who knowingly requires or permits **or authorizes** a driver to violate or fail to comply with an out-of-service order **or to commit a railroad crossing violation**, is subject to a civil penalty [of two thousand five hundred dollars] **not to exceed an amount as determined by the secretary pursuant to 49 CFR Part 383, or as amended by the secretary.**

3. The [general] **chief** counsel to the [division of motor carrier and railroad safety within the department of economic development] **state highways and transportation commission** shall bring an action in accordance with the procedures under section 390.156, RSMo, to recover a civil penalty under this section against a driver who violates or fails to comply with an out-of-service order, or against an employer who violates an out-of-service order or knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, or both.

4. In addition to any other remedies under this section, actions under this section may be brought against a driver or employer who violates or fails to comply with an out-of-service order with reference to a motor vehicle or combination of motor vehicles used in intrastate commerce which has a capacity of more than five passengers, excluding the driver.

302.760. NONRESIDENTS, ACTION AGAINST LICENSE, NOTICE TO LICENSING STATE, WHEN. — Within ten days after conviction, suspension, revocation, cancellation or disqualification of any nonresident holder of a commercial driver's license **or any nonresident who is required to possess a commercial driver's license** for any violation committed in a [commercial motor] vehicle of state law or any county or municipal ordinance regulating the operation of motor vehicles, other than parking violations, the director shall notify the driver's licensing authority in the licensing state of such action **in the manner prescribed in 49 CFR Part 384, or as amended by the secretary.**

304.013. ALL-TERRAIN VEHICLES, PROHIBITED ON HIGHWAYS, RIVERS OR STREAMS OF THIS STATE, EXCEPTIONS, OPERATIONAL REQUIREMENTS — SPECIAL PERMITS — PROHIBITED USES — PENALTY. — 1. No person shall operate an all-terrain vehicle, as defined in section 301.010, RSMo, upon the highways of this state, except as follows:

- (1) All-terrain vehicles owned and operated by a governmental entity for official use;
- (2) All-terrain vehicles operated for agricultural purposes or industrial on-premises purposes between the official sunrise and sunset on the day of operation;
- (3) All-terrain vehicles operated by handicapped persons for short distances occasionally only on the state's secondary roads when operated between the hours of sunrise and sunset;
- (4) Governing bodies of cities may issue special permits to licensed drivers for special uses of all-terrain vehicles on highways within the city limits. Fees of fifteen dollars may be collected and retained by cities for such permits;
- (5) Governing bodies of counties may issue special permits to licensed drivers for special uses of all-terrain vehicles on county roads within the county. Fees of fifteen dollars may be collected and retained by the counties for such permits.

2. No person shall operate an off-road vehicle within any stream or river in this state, except that off-road vehicles may be operated within waterways which flow within the boundaries of land which an off-road vehicle operator owns, or for agricultural purposes within the boundaries of land which an off-road vehicle operator owns or has permission to be upon, or for the purpose of fording such stream or river of this state at such road crossings as are customary or part of the highway system. All law enforcement officials or peace officers of this state and its political subdivisions or department of conservation agents or department of natural resources park rangers shall enforce the provisions of this subsection within the geographic area of their jurisdiction.

3. A person operating an all-terrain vehicle on a highway pursuant to an exception covered in this section shall have a valid operator's or chauffeur's license, except that a handicapped person operating such vehicle pursuant to subdivision (3) of subsection 1 of this section, but shall

not be required to have passed an examination for the operation of a motorcycle, and the vehicle shall be operated at speeds of less than thirty miles per hour. When operated on a highway, an all-terrain vehicle shall have a bicycle safety flag, which extends not less than seven feet above the ground, attached to the rear of the vehicle. The bicycle safety flag shall be triangular in shape with an area of not less than thirty square inches and shall be day-glow in color.

4. No persons shall operate an all-terrain vehicle:

- (1) In any careless way so as to endanger the person or property of another;
- (2) While under the influence of alcohol or any controlled substance;
- (3) Without a securely fastened safety helmet on the head of an individual who operates an all-terrain vehicle or who is being towed or otherwise propelled by an all-terrain vehicle, unless the individual is at least eighteen years of age.

5. No operator of an all-terrain vehicle shall carry a passenger, except for agricultural purposes. **The provisions of this subsection shall not apply to any all-terrain vehicle in which the seat of such vehicle is designed to carry more than one person.**

6. A violation of this section shall be a class C misdemeanor. In addition to other legal remedies, the attorney general or county prosecuting attorney may institute a civil action in a court of competent jurisdiction for injunctive relief to prevent such violation or future violations and for the assessment of a civil penalty not to exceed one thousand dollars per day of violation.

304.029. OPERATION OF LOW-SPEED VEHICLES ON HIGHWAY, PERMITTED WHEN — EXEMPTIONS. — 1. Notwithstanding any other law to the contrary, a low-speed vehicle may be operated upon a highway in the state if it meets the requirements of this section. Every person operating a low-speed vehicle shall be granted all the rights and shall be subject to all the duties applicable to the driver of any other motor vehicle except as to the special regulations in this section and except as to those provisions which by their nature can have no application.

2. The operator of a low-speed vehicle shall observe all traffic laws and local ordinances regarding the rules of the road. A low-speed vehicle shall not be operated on a street or a highway with a posted speed limit greater than thirty-five miles per hour. The provisions of this subsection shall not prohibit a low-speed vehicle from crossing a street or highway with a posted speed limit greater than thirty-five miles per hour.

3. A low-speed vehicle shall be exempt from the requirements of sections 307.350 to 307.402, RSMo, for purposes of titling and registration. Low-speed vehicles shall comply with the standards in 49 CFR 571.500, as amended.

4. Every operator of a low-speed vehicle shall maintain financial responsibility on such low-speed vehicle as required by chapter 303, RSMo, if the low-speed vehicle is to be operated upon the highways of this state.

5. Each person operating a low-speed vehicle on a highway in this state shall possess a valid driver's license issued pursuant to chapter 302, RSMo.

6. For purposes of this section a "low-speed vehicle" shall have the meaning ascribed to it in 49 CFR, section 571.3, as amended.

7. All low-speed vehicles shall be manufactured in compliance with the National Highway Traffic Safety Administration standards for low-speed vehicles in 49 CFR 571.500, as amended.

8. Nothing in this section shall prevent county or municipal governments from adopting more stringent local ordinances governing low-speed vehicle operation if the governing body of the county or municipality determines that such ordinances are necessary in the interest of public safety. The department of transportation may prohibit the operation of low-speed vehicles on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

304.031. TRAFFIC SIGNAL PREEMPTION SYSTEM, USE OF, PERMITTED WHEN — VIOLATIONS, PENALTY. — 1. As used in this section, "Traffic Signal Preemption System (TSPS)" shall mean a traffic-control system designated for use by emergency vehicles, as defined in section 304.031, to improve traffic movement by temporarily controlling signalized intersections.

2. The owner of a traffic control signal may authorize use of a TSPS by the following persons for the following purposes:

(1) An authorized operator in an authorized emergency vehicle, or an authorized person who is an employee or member of an agency or entity which operates emergency vehicles, who may activate a TSPS from a station where the entity's emergency vehicles are based to control a traffic signal near that station, in order to improve the safety and efficiency of emergency response operations;

(2) An authorized operator in a bus, in order to interrupt the cycle of the traffic control signal in such a way as to keep the green light showing for longer than it otherwise would;

(3) An authorized operator in a traffic signal maintenance vehicle, in order to facilitate traffic signal maintenance activities.

3. A TSPS used by an authorized person in an emergency vehicle or at a station where emergency vehicles are stationed shall preempt and override a device operated by any other person.

4. A traffic control signal operating device used as authorized under this section must operate in such a way that the device does not continue to control the signal once the vehicle containing the device has arrived at the intersection, regardless of whether the vehicle remains at the intersection. No motor vehicle driver shall be convicted of any traffic violation if there is evidence that TSPS has been used by a government official to improperly change the sequence of the traffic signals.

5. It shall be unlawful for any person not approved herein to use a TSPS to control traffic.

6. Violation of this section shall be deemed a class B misdemeanor.

304.035. STOP REQUIRED AT RAILROAD GRADE CROSSING, WHEN — COMMERCIAL MOTOR VEHICLES, SPEED AT CROSSINGS — PENALTY. — 1. When any person driving a vehicle approaches a railroad grade crossing, the driver of the vehicle shall operate the vehicle in a manner so he will be able to stop, and he shall stop the vehicle not less than fifteen feet and not more than fifty feet from the nearest rail of the railroad track and shall not proceed until he can safely do so if:

(1) A clearly visible electric or mechanical signal device warns of the approach of a railroad train; or

(2) A crossing gate is lowered or when a human flagman gives or continues to give a signal or warning of the approach or passage of a railroad train; or

(3) An approaching railroad train is visible and is in hazardous proximity to such crossing; or

(4) Any other traffic sign, device or any other act, rule, regulation or statute requires a vehicle to stop at a railroad grade crossing.

2. No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing when a train is approaching while such gate or barrier is closed or is being opened or closed.

3. No person shall drive a vehicle through a railroad crossing when there is not sufficient space to drive completely through the crossing.

4. No person shall drive a vehicle through a railroad crossing unless such vehicle has sufficient undercarriage clearance necessary to prevent the undercarriage of the vehicle from contacting the railroad crossing.

5. Every commercial motor vehicle as defined in section 302.700, RSMo, shall, upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said commercial motor vehicle to be stopped before reaching the nearest rail of such crossing and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear. This section does not apply to vehicles which are required to stop at railroad crossings pursuant to section 304.030.

6. Any person violating the provisions of this section is guilty of a class C misdemeanor.

304.070. VIOLATION OF SECTION 304.050, PENALTY. — 1. Any person who violates any of the provisions of subsections 1, 3, and 6 of section 304.050 is guilty of a class A misdemeanor. In addition, beginning July 1, 2005, the court may suspend the driver's license of any person who violates the provision of subsection 1 of section 304.050. If ordered by the court, the director shall suspend the driver's license for ninety days for a first offense of subsection 1 of section 304.050, and one hundred twenty days for a second or subsequent offense of subsection 1 of section 304.050.

2. Any appeal of a suspension imposed under subsection 1 of this section shall be a direct appeal of the court order and subject to review by the presiding judge of the circuit court or another judge within the circuit other than the judge who issued the original order to suspend the driver's license. The director of revenue's entry of the court ordered suspension on the driving record is not a decision subject to review pursuant to section 302.311, RSMo. Any suspension of the driver's license ordered by the court under this section shall be in addition to any other suspension that may occur as a result of the conviction pursuant to other provisions of law.

304.154. TOWING TRUCK COMPANY REQUIREMENTS. — 1. Beginning January 1, 2005, a towing company operating a tow truck pursuant to the authority granted in section 304.155 or 304.157 shall:

- (1) Have and occupy a verifiable business address;
- (2) Have a fenced, secure, and lighted storage lot or an enclosed, secure building for the storage of motor vehicles;
- (3) Be available twenty-four hours a day, seven days a week. Availability shall mean that an employee of the towing company or an answering service answered by a person is able to respond to a tow request;
- (4) Maintain a valid insurance policy issued by an insurer authorized to do business in this state, or a bond or other acceptable surety providing coverage for the death of, or injury to, persons and damage to property for each accident or occurrence in the amount of at least five hundred thousand dollars per incident;
- (5) Provide workers' compensation insurance for all employees of the towing company if required by chapter 287, RSMo; and
- (6) Maintain current motor vehicle registrations on all tow trucks currently operated within the towing company fleet.

2. Counties may adopt ordinances with respect to towing company standards in addition to the minimum standards contained in this section. A towing company located in a county of the second, third, and fourth classification is exempt from the provisions of this section.

304.155. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY, REMOVAL — HAZARDS ON LAND AND WATER, REMOVAL, LIMITED LIABILITY, WHEN — TOWING OF PROPERTY REPORT TO HIGHWAY OR WATER PATROL OR CRIME INQUIRY AND INSPECTION REPORT WHEN, OWNER LIABLE FOR COSTS — CHECK FOR STOLEN VEHICLES PROCEDURE — RECLAIMING VEHICLE — LIEN FOR CHARGES — RECORD MAINTENANCE BY TOWING COMPANIES — LIENHOLDER REPOSSESSION, PROCEDURE. — 1. Any law enforcement officer

within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours, **or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;**

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours, **or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;**

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under section 577.080, RSMo;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which due to any other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or

(8) Any abandoned property illegally left standing on the waters of this state as defined in section 306.010, RSMo, where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or is floating loose on the water.

2. The state transportation department may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the roadway of any state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, RSMo, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under Section 5103(a) of Title 49, U.S.C.

3. Any law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and inspection report. Any state or federal government agency other than a law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within two hours of the tow along with a crime inquiry and inspection report as required in this section. Any local government agency, other than a law enforcement agency, authorizing a tow pursuant to this section where property is towed away from the immediate vicinity shall report the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.

4. Neither the law enforcement officer, government agency official nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

5. The owner of abandoned property removed as provided in this section or in section 304.157 shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 304.158.

6. Upon the towing of any abandoned property pursuant to this section or under authority of a law enforcement officer or local government agency pursuant to section 304.157, the law enforcement agency that authorized such towing or was properly notified by another government agency of such towing shall promptly make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. If the abandoned property is not claimed within ten working days of the towing, **the tower who has online access to the department of revenue's records shall make an inquiry to determine the abandoned property owner and lienholder, if any, of record. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply with the requirements of subsection 3 of section 304.156. If the tower does not have online access,** the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue. A towing company **that does not have online access to the department's records and that is** in possession of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed. The crime inquiry and inspection report shall be designed by the director of revenue and shall include the following:

- (1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;
- (2) A description of any damage to the property noted by the officer authorizing the tow;
- (3) The license plate or registration number and the state of issuance, if available;
- (4) The storage location of the towed property;
- (5) The name, telephone number and address of the towing company;
- (6) The date, place and reason for the towing of the abandoned property;
- (7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the law enforcement agency making the inquiry;
- (8) The signature and printed name of the officer authorizing the tow [and the towing operator]; and

(9) **The name of the towing company, the signature and printed name of the towing operator, and an indicator disclosing whether the tower has online access to the department's records;**

(10) Any additional information the director of revenue deems appropriate.

7. One copy of the crime inquiry and inspection report shall remain with the agency which authorized the tow. One copy shall be provided to and retained by the storage facility and one copy shall be retained by the towing facility in an accessible format in the business records for a period of three years from the date of the tow or removal.

8. The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

9. Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned as provided in this section shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property. Such lien shall be enforced in the manner provided under section 304.156.

10. Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain information regarding the authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, **including copies of any online records of the towing company accessed** and information concerning the final disposition of the possession of the abandoned property.

11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the local law enforcement agency where the repossession occurred within two hours of the repossession and shall further provide the local law enforcement agency with any additional information the agency deems appropriate. The local law enforcement agency shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

12. **Notwithstanding the provisions of section 301.227, RSMo, any towing company who has complied with the notification provisions in section 304.156, including notice that any property remaining unredeemed after thirty days may be sold as scrap property may then dispose of such property as provided in this subsection. Such sale shall only occur if at least thirty days has passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in section 304.156. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of revenue within two**

weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three years that shall be available for inspection by law enforcement and authorized department of revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in section 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in 301.227, RSMo, on vehicles purchased on a bill of sale pursuant to this section.

304.156. NOTICE TO TOWING COMPANY, OWNER OR LIENHOLDER, WHEN — STORAGE CHARGES, WHEN AUTHORIZED — SEARCH OF VEHICLE FOR OWNERSHIP DOCUMENTS — PETITION, DETERMINATION OF WRONGFUL TAKING — POSSESSORY LIEN, NEW TITLE, HOW ISSUED — SALE OF ABANDONED PROPERTY BY MUNICIPALITY OR COUNTY, REQUIREMENTS — TOWING COMPANY, NEW TITLE WHEN. — 1. Within five working days of receipt of the crime inquiry and inspection report under section 304.155 or the abandoned property report under section 304.157, the director of revenue shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to determine the name and address of the owner and lienholder, if any. After ascertaining the name and address of the owner and lienholder, if any, the department shall, within fifteen working days, notify the towing company. Any towing company which comes into possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the department of revenue or of a corresponding agency in any other state. The towing company shall notify the owner and any lienholder within ten business days of the date of mailing indicated on the notice sent by the department of revenue, by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address and telephone number of the storage facility;
- (2) The date, reason and place from which the abandoned property was removed;
- (3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
- (4) A statement that the storage firm claims a possessory lien for all such charges;
- (5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
- (6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this section to contest the propriety of such towing or removal;
- (7) A statement that if the abandoned property remains unclaimed for thirty days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
- (8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

2. A towing company may only assess reasonable storage charges for abandoned property towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed only for the time in which the towing company complies with the procedural requirements of sections 304.155 to 304.158.

3. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the department shall notify the towing company which shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed that no ownership documents were found and a good faith effort has been made. For purposes of this section, "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and title:

(1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

(2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;

(3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

(4) If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

4. If no ownership information is discovered, the director of revenue shall be notified in writing and title obtained in accordance with subsection 7 of this section.

5. (1) The owner of the abandoned property removed pursuant to the provisions of section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to subsection 1 of this section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The director of revenue shall not be a party to such petition but a copy of the petition shall be served on the director of revenue who shall not issue title to such abandoned property pursuant to this section until the petition is finally decided.

(2) Upon filing of a petition in the associate circuit court, the owner or lienholder may have the abandoned property released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing and storage to ensure the payment of such charges in the event he does not prevail. Upon the posting of the bond and the payment of the applicable fees, the court shall issue an order notifying the towing company of the posting of the bond and directing the towing company to release the abandoned property. At the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing company reciting any claims for loss or damage to the abandoned property or the contents thereof.

(3) Upon determining the respective rights of the parties, the final order of the court shall provide for immediate payment in full of recovery, towing, and storage fees by the abandoned property owner or lienholder or the owner, lessee, or agent thereof of the real property from which the abandoned property was removed.

6. A towing and storage lien shall be enforced as provided in subsection 7 of this section.

7. Thirty days after the notification form has been mailed to the abandoned property owner and holder of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in subsection 5 of this section, the lienholder in possession may apply to the director of revenue for a certificate. The application for title shall be accompanied by:

(1) An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty days and the owner of the abandoned property or holder of a security agreement has not made arrangements for payment of towing and storage charges;

(2) An affidavit that the lienholder in possession has not been notified of any application for hearing as provided in this section;

(3) A copy of the abandoned property report or crime inquiry and inspection report;

(4) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and lienholder of record was sent a notice as required in this section; and

(5) A copy of the envelope or mailing container showing the address and postal markings indicating that the notice was "not forwardable" or "address unknown".

8. If notice to the owner and holder of a security agreement has been returned marked "not forwardable" or "addressee unknown", the lienholder in possession shall comply with subsection 3 of this section.

9. Any municipality or county may adopt an ordinance regulating the removal and sale of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158, **and, for a home rule city with more than four hundred thousand inhabitants and located in more than one county, includes the following provisions:**

(1) That the department of revenue records must be searched to determine the registered owner or lienholder of the abandoned property;

(2) That if a registered owner or lienholder is disclosed in the records, that the owner and lienholder or owner or lienholder are mailed a notice by the local governmental agency, by U.S. mail, advising of the towing and impoundment;

(3) That if the vehicle is older than six years and more than fifty percent damaged by collision, fire, or decay, and has a fair market value of less than two hundred dollars as determined by using any nationally recognized appraisal book or method, it must be held no less than ten days after the notice is sent pursuant to this section before being sold to a licensed salvage or scrap business; provided however where a title is required under this chapter an affidavit from a certified appraiser attesting that the value of the vehicle is less than two hundred dollars;

(4) That all other vehicles must be held no less than thirty days after the notice is sent pursuant to this subsection before they may be sold.

10. Any municipality or county which has physical possession of the abandoned property and which sells abandoned property in accordance with a local ordinance may transfer ownership by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the official municipal or county seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of section 301.218, RSMo, or section 301.560, RSMo, or for any other person. Any dealer or other person purchasing such property from a municipality or county shall apply within thirty days of purchase for a certificate. Anyone convicted of a violation of this section shall be guilty of an infraction.

11. Any persons who have towed abandoned property prior to August 28, 1996, may, until January 1, 2000, apply to the department of revenue for a certificate. The application shall be accompanied by:

(1) A notarized affidavit explaining the circumstances by which the abandoned property came into their possession, including the name of the owner or possessor of real property from which the abandoned property was removed;

(2) The date of the removal;

(3) The current location of the abandoned property;

(4) An inspection of the abandoned property as prescribed by the director; and

(5) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest of record and a copy of the certified mail receipt.

12. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue one of the following:

(1) An original certificate of title if the vehicle owner has obtained a vehicle examination certificate as provided in section 301.190, RSMo, which indicates that the vehicle was not previously in a salvage condition or rebuilt;

(2) An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190, RSMo, indicates the vehicle was previously in a salvage condition or rebuilt;

(3) A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report;

(4) Notwithstanding the provisions of section 301.573, RSMo, to the contrary, if satisfied with the genuineness of the application and supporting documents, the director shall issue an original title to abandoned property previously issued a salvage title as provided in this section, if the vehicle examination certificate as provided in section 301.190, RSMo, does not indicate the abandoned property was previously in a salvage condition or rebuilt.

13. If abandoned property is insured and the insurer of property regards the property as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or lienholder shall claim and remove the property from the storage facility or make arrangements to transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of all claims for towing and storage, to the towing company or storage facility. The owner of the abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance policy covers towing and storage charges, shall pay reasonable fees assessed by the towing company and storage facility. The property shall be claimed and removed or title transferred to the towing company or storage facility within thirty days of the date that the insurer paid a claim for the total loss of the property or is notified as to the location of the abandoned property, whichever is the later event. Upon request, the insurer of the property shall supply the towing company and storage facility with the name, address and phone number of the insurance company and of the insured and with a statement regarding which party is responsible for the payment of towing and storage charges under the insurance policy.

304.157. VEHICLES LEFT UNATTENDED OR IMPROPERLY PARKED ON PRIVATE PROPERTY OF ANOTHER, PROCEDURE FOR REMOVAL AND DISPOSITION — VIOLATION OF CERTAIN REQUIRED PROCEDURE, PENALTY. — 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

(1) The abandoned property is left unattended for more than forty-eight hours; or

(2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

2. A local government agency may also provide for the towing of motor vehicles from real property under the authority of any local ordinance providing for the towing of vehicles which are derelict, junk, scrapped, disassembled or otherwise harmful to the public health under the terms of the ordinance. Any local government agency authorizing a tow under this subsection shall report the tow to the local law enforcement agency within two hours with a crime inquiry and inspection report pursuant to section 304.155.

3. Neither the law enforcement officer, local government agency nor anyone having custody of abandoned property under his or her direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

4. The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a law enforcement officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this subsection may be made only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four-hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property;

(2) The abandoned property is left unattended on owner-occupied residential property with four residential units or less, and the owner, lessee or agent of the real property in lawful possession has notified the appropriate law enforcement agency, and ten hours have elapsed since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and ninety-six hours have elapsed since that notification.

5. Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the director of revenue and shall contain the following:

(1) The year, model, make and abandoned property identification number of the property and the owner and any lienholders, if known;

(2) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;

(3) The license plate or registration number and the state of issuance, if available;

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The printed name, address and phone number of the owner, lessee or property or security manager in possession of the real property;

(7) The towing company's name and address;

(8) The signature of the towing operator;

(9) The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;

(10) Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the law enforcement official receiving the report; and

(11) Any additional information the director of revenue deems appropriate.

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subsection 4 of this section shall deliver a copy of the abandoned property report to the local law enforcement agency having jurisdiction over the location from

which the abandoned property was towed. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the law enforcement agency receiving the report has the technological capability of receiving such copy and has registered the towing company for such purpose. The registration requirements shall not apply to law enforcement agencies located in counties of the third or fourth classification. The report shall be delivered within two hours if the tow was made from a signed location pursuant to subdivision (1) of subsection 4 of this section, otherwise the report shall be delivered within twenty-four hours.

7. The law enforcement agency receiving such abandoned property report must record the date on which the abandoned property report is filed with such agency and shall promptly make an inquiry into the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide law enforcement computer system, and an officer shall sign the abandoned property report and provide the towing company with a signed copy. The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.

8. The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall search the records of the department of revenue and provide the towing company with the latest owner and lienholder information on the abandoned property, **and if the tower has online access to the department of revenue's records, the tower shall comply with the requirements of section 301.155, RSMo.** If the abandoned property is not claimed within ten working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the department of revenue.

9. If any owner or lessee of real property knowingly authorizes the removal of abandoned property in violation of this section, then the owner or lessee shall be deemed guilty of a class C misdemeanor.

304.170. REGULATIONS AS TO WIDTH, HEIGHT AND LENGTH OF VEHICLES — EXCEPTIONS. — 1. No vehicle operated upon the highways of this state shall have a width, including load, in excess of ninety-six inches, except clearance lights, rearview mirrors or other accessories required by federal, state or city law or regulation; except that, vehicles having a width, including load, not in excess of one hundred two inches, exclusive of clearance lights, rearview mirrors or other accessories required by law or regulations, may be operated on the interstate highways and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Provided however, a recreational vehicle as defined in section 700.010, RSMo, may exceed the foregoing width limits if the appurtenances on such recreational vehicle extend no further than the rearview mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

2. No vehicle operated upon the interstate highway system or upon any route designated by the chief engineer of the state transportation department shall have a height, including load, in excess of fourteen feet. On all other highways, no vehicle shall have a height, including load, in excess of thirteen and one-half feet, except that any vehicle or combination of vehicles transporting automobiles or other motor vehicles may have a height, including load, of not more than fourteen feet.

3. No single motor vehicle operated upon the highways of this state shall have a length, including load, in excess of forty-five feet, except as otherwise provided in this section.

4. No bus, recreational motor vehicle or trackless trolley coach operated upon the highways of this state shall have a length in excess of forty-five feet, except that such vehicles may exceed the forty-five feet length when such excess length is caused by the projection of a front safety

bumper or a rear safety bumper or both. Such safety bumper shall not cause the length of the bus or recreational motor vehicle to exceed the forty-five feet length limit by more than one foot in the front and one foot in the rear. The term "safety bumper" means any device which may be fitted on an existing bumper or which replaces the bumper and is so constructed, treated, or manufactured that it absorbs energy upon impact.

5. No combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the highways of this state shall have a length, including load, in excess of sixty feet; except that in order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor and semitrailer or truck-tractor equipped with dromedary and semitrailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer or truck-tractor equipped with dromedary and semitrailer, the length of such semitrailer shall not exceed fifty-three feet.

6. In order to comply with the provisions of Title 23 of the United States Code (Public Law 97-424), no combination of truck-tractor, semitrailer and trailer operated upon the interstate highway system of this state shall have an overall length, including load, in excess of the length of the truck-tractor plus the semitrailer and trailer, neither of which semitrailer or trailer shall exceed twenty-eight feet in length, except that any existing semitrailer or trailer up to twenty-eight and one-half feet in length actually and lawfully operated on December 1, 1982, within a sixty-five foot overall length limit in any state, may continue to be operated upon the interstate highways of this state. On those primary highways not designated by the state highways and transportation commission as provided in subsection 10 of this section, no combination of truck-tractor, semitrailer and trailer shall have an overall length, including load, in excess of sixty-five feet; provided, however, the state highways and transportation commission may designate additional routes for such sixty-five foot combinations.

7. Automobile transporters, boat transporters, truck-trailer boat transporter combinations, stinger-steered combination automobile transporters and stinger-steered combination boat transporters having a length not in excess of seventy-five feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. All length provisions regarding automobile or boat transporters, truck-trailer boat transporter combinations and stinger-steered combinations shall include a semitrailer length not to exceed fifty-three feet and are exclusive of front and rear overhang, which shall be no greater than a three-foot front overhang and no greater than a four-foot rear overhang.

8. Driveaway saddlemount combinations having a length not in excess of seventy-five feet may be operated on the interstate highways of this state and such other highways as may be designated by the highways and transportation commission for the operation of such vehicles plus a distance not to exceed ten miles from such interstate or designated highway. Saddlemount combinations must comply with the safety requirements of Section 393.71 of Title 49 of the Code of Federal Regulations and may contain no more than three saddlemounted vehicles and one fullmount.

9. No truck-tractor semitrailer-semitrailer combination vehicles operated upon the interstate and designated primary highway system of this state shall have a semitrailer length in excess of twenty-eight feet or twenty-eight and one-half feet if the semitrailer was in actual and lawful operation in any state on December 1, 1982, operating in a truck-tractor semitrailer-semitrailer combination. The B-train assembly is excluded from the measurement of semitrailer length when used between the first and second semitrailer of a truck-tractor semitrailer-semitrailer combination, except that when there is no semitrailer mounted to the B-train assembly, it shall be included in the length measurement of the semitrailer.

10. The highways and transportation commission is authorized to designate routes on the state highway system other than the interstate system over which those combinations of vehicles

of the lengths specified in subsections 5, 6, 7, 8 and 9 of this section may be operated. Combinations of vehicles operated under the provisions of subsections 5, 6, 7, 8 and 9 of this section may be operated at a distance not to exceed ten miles from the interstate system and such routes as designated under the provisions of this subsection.

11. Except as provided in subsections 5, 6, 7, 8, 9 and 10 of this section, no other combination of vehicles operated upon the primary or interstate highways of this state plus a distance of ten miles from a primary or interstate highway shall have an overall length, unladen or with load, in excess of sixty-five feet or in excess of fifty-five feet on any other highway, except the state highways and transportation commission may designate additional routes for use by sixty-five foot combinations, seventy-five foot stinger-steered combinations or seventy-five foot saddlemount combinations. Any vehicle or combination of vehicles transporting automobiles, boats or other motor vehicles may carry a load which extends no more than three feet beyond the front and four feet beyond the rear of the transporting vehicle or combination of vehicles.

12. (1) Except as hereinafter provided, these restrictions shall not apply to agricultural implements operating occasionally on the highways for short distances, or to self-propelled hay-hauling equipment or to implements of husbandry, or to the movement of farm products as defined in section 400.9-109, RSMo, or to vehicles temporarily transporting agricultural implements or implements of husbandry or roadmaking machinery, or road materials or towing for repair purposes vehicles that have become disabled upon the highways; or to implement dealers delivering or moving farm machinery for repairs on any state highway other than the interstate system.

(2) Implements of husbandry and vehicles transporting such machinery or equipment and the movement of farm products as defined in section 400.9.109, RSMo, may be operated occasionally for short distances on state highways when operated between the hours of sunrise and sunset by a driver licensed as an operator or chauffeur.

13. As used in this chapter the term "implements of husbandry" means all self-propelled machinery operated at speeds of less than thirty miles per hour, specifically designed for, or especially adapted to be capable of, incidental over-the-road and primary offroad usage and used exclusively for the application of commercial plant food materials or agricultural chemicals, and not specifically designed or intended for transportation of such chemicals and materials. [No implement of husbandry may exceed a width of eleven feet, six inches.]

14. The purpose of this section is to permit a single trip per day by the implement of husbandry from the source of supply to a given farm.

15. Sludge disposal units may be operated on all state highways other than the interstate system. Such units shall not exceed one hundred thirty-eight inches in width and may be equipped with over-width tires. Such units shall observe all axle weight limits. The chief engineer of the state transportation department shall issue special permits for the movement of such disposal units and may by such permits restrict the movements to specified routes, days and hours.

304.190. HEIGHT AND WEIGHT REGULATIONS (CITIES OF 75,000 OR MORE) — COMMERCIAL ZONE DEFINED. — 1. No motor vehicle, unladen or with load, operating exclusively within the corporate limits of cities containing seventy-five thousand inhabitants or more or within two miles of the corporate limits of the city or within the commercial zone of the city shall exceed fifteen feet in height.

2. No motor vehicle operating exclusively within any said area shall have a greater weight than twenty-two thousand four hundred pounds on one axle.

3. The "commercial zone" of the city is defined to mean that area within the city together with the territory extending one mile beyond the corporate limits of the city and one mile additional for each fifty thousand population or portion thereof provided, however, the commercial zone surrounding a city not within a county shall extend eighteen miles beyond the

corporate limits of any such city not located within a county and shall also extend throughout any first class charter county which adjoins that city; further, provided, however, the commercial zone of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants shall extend twelve miles beyond the corporate limits of any such city; **except that this zone shall extend from the southern border of such city's limits, beginning with the western-most freeway, following said freeway south to the first intersection with a multilane undivided highway, where the zone shall extend south along said freeway to include a city of the fourth classification with more than eight thousand nine hundred but less than nine thousand inhabitants, and shall extend north from the intersection of said freeway and multilane undivided highway along the multilane undivided highway to the city limits of a city with a population of at least four hundred thousand inhabitants but not more than four hundred fifty thousand inhabitants.** In no case shall the commercial zone of a city be reduced due to a loss of population. The provisions of this section shall not apply to motor vehicles operating on the interstate highways in the area beyond two miles of a corporate limit of the city unless the United States Department of Transportation increases the allowable weight limits on the interstate highway system within commercial zones. In such case, the mileage limits established in this section shall be automatically increased only in the commercial zones to conform with those authorized by the United States Department of Transportation.

4. Nothing in this section shall prevent a city, county, or municipality, by ordinance, from designating the routes over which such vehicles may be operated.

304.601. USE OF DESIGNATED DISABLED PARKING SPACES, WHEN. — 1. Designated disabled parking spaces may only be used when a disabled person, who has been issued disabled license plates or windshield hanging placards pursuant to the provisions of section 301.142, RSMo, or by those states with which the director has entered into reciprocity agreements as provided in section 301.142, RSMo, is then, or immediately preceding being parked, was an occupant of the motor vehicle bearing the disabled license plate or windshield hanging placard or in cases where the motor vehicle bearing the disabled license plate or windshield hanging placard is then being used to deliver or collect one or more of the disabled persons for whom the disabled license plate or windshield hanging placard was issued.

2. The driver, or any occupant, of a motor vehicle bearing disabled license plates or a windshield hanging placard which is parked or has been observed to have been parking in a duly designated disabled parking space shall, upon request from any law enforcement officer or other duly constituted peace officer upon identification as such, produce the disabled registration certificate issued to the disabled person or entity as provided for in section 301.142, RSMo, or such other authorization to show that the driver, or any occupant of the vehicle is lawfully entitled to use a designated disabled parking space. The driver or any occupant of the motor vehicle shall, in addition to the certificate, produce other identification with a photograph of the disabled person for whom the disabled plates or windshield hanging placard was issued.

3. If the driver, or an occupant, of a motor vehicle which is parked or has been observed to have parked in a designated disabled parking space is unable to, or cannot, produce the certificate as provided for in section 301.142, RSMo, or other proper authorization showing that the vehicle is being used, or has been lawfully parking in a disabled parking space, the operator is guilty of a class A misdemeanor. However, no person shall be found guilty of violating this section if the operator produces such a certificate to the court that was valid at the time of the citation for a person who was using the vehicle.

4. The windshield hanging placard shall only be used when the vehicle is parked in a disabled parking space. It shall be unlawful for any person to operate or drive a motor vehicle with a windshield hanging placard hanging from the inside rearview mirror.

306.461. CERTIFICATE OF TITLE IN BENEFICIARY FORM — MULTIPLE BENEFICIARIES ALLOWED — PROCEDURE TO ISSUE, CONTENT, FEE — CONSENT NOT REQUIRED FOR TRANSACTIONS, REVOCATION — INTEREST SUBJECT TO CERTAIN CLAIMS — TRANSFER NOT DEEMED TESTAMENTARY. — 1. A sole owner of an outboard motor or vessel, and multiple owners of an outboard motor or vessel who hold their interest as joint tenants with right of survivorship or as tenants by the entirety, on application and payment of the fee required for an original certificate of title, may request the director of revenue to issue a certificate of title for the outboard motor or vessel in beneficiary form which includes a directive to the director of revenue to transfer the certificate of title on death of the sole owner or on death of all multiple owners to one beneficiary or to two or more beneficiaries as joint tenants with right of survivorship or as tenants by the entirety named on the face of the certificate.

2. A certificate of title in beneficiary form may not be issued to persons who hold their interest in an outboard motor or vessel as tenants in common.

3. A certificate of title issued in beneficiary form shall include after the name of the owner, or after the names of multiple owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

4. (1) During the lifetime of a sole owner and during the lifetime of all multiple owners, the signature or consent of the beneficiary or beneficiaries shall not be required for any transaction relating to the outboard motor or vessel for which a certificate of title in beneficiary form has been issued.

(2) A certificate of title in beneficiary form may be revoked or the beneficiary or beneficiaries changed at any time before the death of the sole owner or surviving multiple owner only by the following methods:

(a) By a sale of the outboard motor or vessel with proper assignment and delivery of the certificate of title to another person; or

(b) By surrender of the outstanding certificate of title and filing an application to reissue the certificate of title with no designation of a beneficiary or with the designation of a different beneficiary or beneficiaries with the director of revenue in proper form and accompanied by the payment of the fee for an original certificate of title.

(3) The beneficiary's or beneficiaries' interest in the outboard motor or vessel at death of the owner or surviving owner shall be subject to any contract of sale, assignment of ownership or security interest to which the owner or owners of the outboard motor or vessel were subject during their lifetime.

(4) The designation of a beneficiary or beneficiaries in a certificate of title issued in beneficiary form may not be changed or revoked by a will, any other instrument, or a change in circumstances, or otherwise be changed or revoked except as provided by subdivision (2) of this subsection.

5. (1) On proof of death of one of the owners of two or more multiple owners, or of a sole owner, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the outboard motor or vessel to the surviving owner or owners or, if none, to the surviving beneficiary or beneficiaries, subject to any outstanding security interest; and the current valid certificate of number shall be so transferred. **If the surviving beneficiary or beneficiaries makes a request of the director of revenue, the director may allow the beneficiary or beneficiaries to make one assignment of title.**

(2) The director of revenue may rely on a death certificate or record or report that constitutes prima facie proof or evidence of death under subdivisions (1) and (2) of section 472.290, RSMo.

(3) The transfer of an outboard motor or vessel at death pursuant to this section is effective by reason of sections 301.675 to 301.682, RSMo, and sections 306.455 to 306.465, and is not to be considered testamentary, or to be subject to the requirements of section 473.087, RSMo, or section 474.320, RSMo.

306.530. REGISTRATION OF OUTBOARD MOTORS. — 1. The owner of an outboard motor kept within this state shall cause it to be registered in the office of the director of revenue who shall issue a certificate of title for the same.

2. The owner of any outboard motor acquired or brought into the state shall file his application for registration and pay the fee within sixty days after it is acquired or brought into this state. The director of revenue may grant extensions of time for registration to any person in deserving cases.

3. Any make of outboard motor older than 1960 which is owned solely as a collector's item and which is used and intended to be used for exhibition and educational purposes only and will not be used on the waterways of this state, will be exempt from titling and registration pursuant to this chapter.

307.020. DEFINITIONS. — As used in sections 307.020 to 307.120, unless the context requires another or different construction:

(1) "Approved" means approved by the director of revenue and when applied to lamps and other illuminating devices means that such lamps and devices must be in good working order;

(2) "Auxiliary lamp" means an additional lighting device on a motor vehicle used primarily to supplement the headlamps in providing general illumination ahead of a vehicle;

(3) "Headlamp" means a major lighting device capable of providing general illumination ahead of a vehicle;

(4) "Mounting height" means the distance from the center of the lamp to the surface on which the vehicle stands;

(5) "Multiple-beam headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use one of two or more distributions of light on the road;

(6) "Reflector" means an approved device designed and used to give an indication by reflected light;

(7) "Single-beam headlamps" means headlamps or similar devices arranged so as to permit the driver of the vehicle to use but one distribution of light on the road;

(8) "Vehicle" means every device in, upon or by which a person or property is or may be transported upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks;

(9) "When lighted lamps are required" means at any time from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet ahead. **Lighted lamps shall also be required any time the weather conditions require usage of the motor vehicle's windshield wipers to operate the vehicle in a careful and prudent manner as defined in section 304.012, RSMo. The provisions of this section shall be interpreted to require lighted lamps during periods of fog even if usage of the windshield wipers is not necessary to operate the vehicle in a careful and prudent manner.**

307.040. WHEN LIGHTS REQUIRED — VIOLATION, PENALTY. — 1. No person shall drive, move, park or be in custody of any vehicle or combination of vehicles on any street or highway during the times when lighted lamps are required unless such vehicle or combination of vehicles displays lighted lamps and illuminating devices as hereinafter in this chapter required. No person shall use on any vehicle any approved electric lamp or similar device unless the light source of such lamp or device complies with the conditions of approval as to focus and rated candlepower.

2. Notwithstanding the provisions of section 307.120, **or any other provision of law, violation of this section shall be deemed an infraction and any person who violates this section as it relates to violations of the usage of lighted lamps required due to weather conditions or fog shall only be fined ten dollars and no court costs shall be assessed.**

307.100. LIMITATIONS ON LAMPS OTHER THAN HEADLAMPS — FLASHING SIGNALS PROHIBITED EXCEPT ON SPECIFIED VEHICLES — PENALTY. — 1. Any lighted lamp or illuminating device upon a motor vehicle other than headlamps, spotlamps, front direction signals or auxiliary lamps which projects a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle. Alternately flashing warning signals may be used on school buses when used for school purposes and on motor vehicles when used to transport United States mail from post offices to boxes of addressees thereof and on emergency vehicles as defined in section 304.022, RSMo, [and] on buses owned or operated by churches, mosques, synagogues, temples or other houses of worship, **and on commercial passenger transport vehicles or railroad passenger cars that are stopped to load or unload passengers**, but are prohibited on other motor vehicles, motorcycles and motor-drawn vehicles except as a means for indicating a right or left turn.

2. Notwithstanding the provisions of section 307.120, violation of this section is an infraction.

307.400. COMMERCIAL VEHICLES, EQUIPMENT AND OPERATION, REGULATIONS, EXCEPTIONS — DEPARTMENT OF PUBLIC SAFETY, RULES, PROCEDURE, THIS CHAPTER. —

1. It is unlawful for any person to operate any commercial motor vehicle as defined in Title 49, Code of Federal Regulations, Part 390.5, either singly or in combination with a trailer, as both vehicles are defined in Title 49, Code of Federal Regulations, Part 390.5, unless such vehicles are equipped and operated as required by Parts 390 through 397, Title 49, Code of Federal Regulations, as such regulations have been and may periodically be amended, whether intrastate transportation or interstate transportation. Members of the Missouri state highway patrol are authorized to enter the cargo area of a commercial motor vehicle or trailer to inspect the contents when reasonable grounds exist to cause belief that the vehicle is transporting hazardous materials as defined by Title 49 of the Code of Federal Regulations. The director of the department of public safety is hereby authorized to further regulate the safety of commercial motor vehicles and trailers as he deems necessary to govern and control their operation on the public highways of this state by promulgating and publishing rules and regulations consistent with this chapter. Any such rules shall, in addition to any other provisions deemed necessary by the director, require:

(1) Every commercial motor vehicle and trailer and all parts thereof to be maintained in a safe condition at all times;

(2) Accidents arising from or in connection with the operation of commercial motor vehicles and trailers to be reported to the department of public safety in such detail and in such manner as the director may require.

Except for the provisions of subdivisions (1) and (2) of this subsection, the provisions of this section shall not apply to any commercial motor vehicle operated in intrastate commerce and licensed for a gross weight of sixty thousand pounds or less when used exclusively for the transportation of solid waste or forty-two thousand pounds or less when the license plate has been designated for farm use by the letter "F" as authorized by the Revised Statutes of Missouri, unless such vehicle is transporting hazardous materials as defined in Title 49, Code of Federal Regulations.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 391, Subpart E, Title 49, Code of Federal Regulations, relating to the physical requirements of drivers shall not be applicable to drivers in intrastate commerce, provided such drivers were licensed by this state as chauffeurs to operate commercial motor vehicles on May 13, 1988. Persons who are otherwise qualified and licensed to operate a commercial motor vehicle in this state may operate such vehicle intrastate at the age of eighteen years or older, except that any person transporting hazardous material must be at least twenty-one years of age.

3. Commercial motor vehicles and drivers of such vehicles may be placed out of service if the vehicles are not equipped and operated according to the requirements of this section.

Criteria used for placing vehicles and drivers out of service are the North American Uniform Out-of-Service Criteria adopted by the Commercial Vehicle Safety Alliance and the United States Department of Transportation, as such criteria have been and may periodically be amended.

4. Notwithstanding the provisions of subsection 1 of this section to the contrary, Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to any vehicle owned or operated by any public utility, rural electric cooperative or other public service organization, or to the driver of such vehicle, while providing restoration of essential utility services during emergencies and operating intrastate. For the purposes of this subsection, the term "essential utility services" means electric, gas, water, telephone and sewer services.

5. Part 395, Title 49, Code of Federal Regulations, relating to the hours of drivers, shall not apply to drivers transporting agricultural commodities or farm supplies for agricultural purposes in this state if such transportation:

(1) Is limited to an area within a one hundred air mile radius from the source of the commodities or the distribution point for the farm supplies; and

(2) Is conducted during the planting and harvesting season within this state, as defined by the department of public safety by regulation.

6. The provisions of Part 395.8, Title 49, Code of Federal Regulations, relating to recording of a driver's duty status, shall not apply to drivers engaged in agricultural operations referred to in subsection 5 of this section, if the motor carrier who employs the driver maintains and retains for a period of six months accurate and true records showing:

(1) The total number of hours the driver is on duty each day; and

(2) The time at which the driver reports for, and is released from, duty each day.

7. Notwithstanding the provisions of subsection 1 of this section to the contrary, Parts 390 through 397, Title 49, Code of Federal Regulations shall not apply to commercial motor vehicles operated in intrastate commerce to transport property, which have a gross vehicle weight rating or gross combination weight rating of twenty-six thousand pounds or less. The exception provided by this subsection shall not apply to vehicles transporting hazardous materials or to vehicles designed to transport sixteen or more passengers including the driver as defined by Title 49 of the Code of Federal Regulations. Nothing in this subsection shall be construed to prohibit persons designated by the department of public safety from inspecting vehicles defined in this subsection.

8. Violation of any provision of this section or any rule promulgated as authorized therein is a class B misdemeanor.

[8.] **9.** No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

365.020. DEFINITIONS. — Unless otherwise clearly indicated by the context, the following words and phrases have the meanings indicated:

(1) "Cash sale price", the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle which is the subject matter of the retail installment contract, if the sale had been a sale for cash or at a cash price instead of a retail installment transaction at a time sale price. The cash sale price may include any taxes, registration, certificate of title, license and other fees and charges for accessories and their installment and for delivery, servicing, repairing or improving the motor vehicle;

(2) "Director", the office of the director of the division of finance;

(3) "Holder" of a retail installment contract, the retail seller of the motor vehicle under the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee;

(4) "Insurance company", any form of lawfully authorized insurer in this state;

(5) "Motor vehicle", any new or used automobile, mobile home, motorcycle, all-terrain vehicle, motorized bicycle, moped, motortricycle, truck, trailer, semitrailer, truck tractor, or bus [having a cash sale price of seven thousand five hundred dollars or less] primarily designed or used to transport persons or property on a public highway, road or street;

(6) "Official fees", the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying any title or lien retained or taken by a seller in connection with a retail installment transaction;

(7) "Person", an individual, partnership, corporation, association, and any other group however organized;

(8) "Principal balance", the cash sale price of the motor vehicle which is the subject matter of the retail installment transaction plus the amounts, if any, included in the sale, if a separate identified charge is made therefor and stated in the contract, for insurance and other benefits, including any amounts paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien, or lease interest on property traded in and official fees, minus the amount of the buyer's down payment in money or goods. Notwithstanding any law to the contrary, any amount actually paid by the seller pursuant to an agreement with the buyer to discharge a security interest, lien or lease on property traded in which was included in a contract prior to August 28, 1999, is valid and legal;

(9) "Retail buyer" or "buyer", a person who buys a motor vehicle from a retail seller in a retail installment transaction under a retail installment contract;

(10) "Retail installment contract" or "contract", an agreement evidencing a retail installment transaction entered into in this state pursuant to which the title to or a lien upon the motor vehicle, which is the subject matter of the retail installment transaction is retained or taken by the seller from the buyer as security for the buyer's obligation. The term includes a chattel mortgage or a conditional sales contract;

(11) "Retail installment transaction", a sale of a motor vehicle by a retail seller to a retail buyer on time under a retail installment contract for a time sale price payable in one or more deferred installments;

(12) "Retail seller" or "seller", a person who sells a motor vehicle, not principally for resale, to a retail buyer under a retail installment contract;

(13) "Sales finance company", a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more sellers. The term includes but is not limited to a bank, trust company, loan and investment company, savings and loan association, financing institution, or registrant pursuant to sections 367.100 to 367.200, RSMo, if so engaged. The term shall not include a person who makes only isolated purchases of retail installment contracts, which purchases are not being made in the course of repeated or successive purchases of retail installment contracts from the same seller;

(14) "Time price differential", the amount, however denominated or expressed, as limited by section 365.120, in addition to the principal balance to be paid by the buyer for the privilege of purchasing the motor vehicle on time to be paid for by the buyer in one or more deferred installments;

(15) "Time sale price", the total of the cash sale price of the motor vehicle and the amount, if any, included for insurance and other benefits if a separate identified charge is made therefor and the amounts of the official fees and time price differential.

365.080. INSURANCE INCLUDED IN RETAIL INSTALLMENT TRANSACTIONS — RESTRICTIONS. — 1. The amount, if any, included in any retail installment transaction for insurance, if a separate identified charge is made for the insurance, which insurance may be purchased by the holder of the contract, shall not exceed the applicable premiums chargeable in accordance with the rates approved by the department of insurance of this state where the rates are required by law to be approved by the department. All insurance shall be written by an insurance company authorized to do business in this state and all policies written in this state

shall be countersigned by a duly licensed resident agent authorized to engage in the insurance business in this state, unless otherwise provided by law. A buyer may be required to provide insurance on the motor vehicle at his own cost for the protection of the seller or holder, as well as the buyer, but the insurance shall be limited to insurance against substantial risk of loss, damage or destruction of the motor vehicle. Any other insurance, including insurance providing involuntary unemployment coverage, may be included in a retail installment transaction at the buyer's expense only if contracted for voluntarily by the buyer. If the insurance for which the identified charge is made insures the safety or health of the buyer or his interest in the motor vehicle and is purchased by the holder, it shall be subject to the limitations provided for in the regulations promulgated and issued by the director pursuant to the provision of subsection 1 of section 365.060. The holder shall within thirty days after the execution of the retail installment contract send or cause to be sent to the buyer a policy or certificate of insurance, clearly setting forth the amount of the cost of the policy or certificate of insurance, the kinds of insurance, and, if a policy, all the terms, exceptions, limitations, restrictions and conditions of the contract of insurance, or, if a certificate, a summary of the certificate. The seller shall not decline existing insurance written by an insurance company authorized to do business in this state and the buyer shall have the privilege of purchasing insurance from an agent or broker of his own selection and of selecting his insurance company; except, that the insurance company shall be acceptable to the holder, and further, that the inclusion of the cost of the insurance in the retail installment contract when the buyer selects his agent, broker or company, shall be optional with the seller.

2. If any insurance is canceled, or the premium adjusted, any refund of the insurance premium received by the holder shall be credited to the final maturing installments of the contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder or either of them.

3. The amount of any life insurance shall not exceed the amount of the total unpaid balance from time to time; except, that where the buyer's obligation is repayable in payments which are not substantially equal in amount, the insurance may be level term insurance in an amount which shall not exceed by more than five dollars the time balance as determined under subsection 6 of section 365.070.

4. Nothing in this chapter shall be construed to prohibit the sale of a deficiency waiver addendum, guaranteed asset protection, extended service contract, or other similar products purchased at the time of sale, as part of a retail sale transaction involving any motor vehicle, or including the cost therefore within a retail installment transaction, provided the requirements of section 365.070 are met.

365.100. LATE PAYMENT CHARGES, INTEREST ON DELINQUENT PAYMENTS, ATTORNEY FEES — DISHONORED OR INSUFFICIENT FUNDS FEE. — For contracts entered into on or after August 28, 2005, if the contract so provides, the holder thereof may charge, finance, and collect:

(1) A charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or twenty-five dollars, whichever is less; except that, a minimum charge of ten dollars may be made, or when the installment is for twenty-five dollars or less, a charge for late payment for a period of not less than fifteen days shall not exceed five dollars, provided, however, that a minimum charge of one dollar may be made;

(2) Interest on each delinquent payment at a rate which shall not exceed the highest lawful contract rate. In addition to such charge, the contract may provide for the payment of attorney fees not exceeding fifteen percent of the amount due and payable under the contract where the contract is referred for collection to any attorney not a salaried employee of the holder, plus court costs; [and]

(3) A dishonored or insufficient funds check fee equal to such fee as provided in section 408.653, RSMo, in addition to fees charged by a bank for each check, draft, order or like instrument which is returned unpaid; **and**

(4) All other reasonable expenses incurred in the origination, servicing, and collection of the amount due under the contract.

390.020. DEFINITIONS. — As used in this chapter, unless the context clearly requires otherwise, the words and terms mean:

(1) "Agricultural commodities in bulk", commodities conforming to the meaning of "commodities in bulk" as defined in this section, which are agricultural, horticultural, viticultural or forest products or any other products which are grown or produced on a farm or in a forest, and which have not undergone processing at any time since movement from the farm or forest, or processed or unprocessed grain, feed, feed ingredients, or forest products;

(2) "Certificate", a written document authorizing a common carrier to engage in intrastate commerce and issued under the provisions of this chapter;

(3) "Charter service", the transportation of a group of persons who, pursuant to a common purpose and at a fixed charge for the vehicle, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group from a point of origin to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the chartering group after having left the place of origin;

(4) "Commercial zone", unless otherwise increased pursuant to the provisions of subdivision (4) of section 390.041, any municipality within this state together with that territory either within or without the state of Missouri, extending one mile beyond the corporate limits of such municipality and one additional mile for each fifty thousand inhabitants or portion thereof; however, any commercial zone of a city not within a county shall extend eighteen miles beyond that city's corporate limits and shall also extend throughout any first class charter county which adjoins that zone;

(5) "Commodities in bulk", commodities, which are fungible, flowable, capable of being poured or dumped, tendered for transportation unpackaged, incapable of being counted, but are weighed or measured by volume and which conform to the shape of the vehicle transporting them;

(6) "Common carrier", any person which holds itself out to the general public to engage in the transportation by motor vehicle of passengers or property for hire or compensation upon the public highways and airlines engaged in intrastate commerce;

(7) "Contract carrier", any person under individual contracts or agreements which engage in transportation by motor vehicles of passenger or property for hire or compensation upon the public highways;

(8) "Corporate family", a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a one hundred percent interest;

(9) "Division", the division of motor carrier and railroad safety of the department of economic development;

(10) "Driveaway operator"[,]:

(a) Any motor carrier who moves any commercial motor vehicle or assembled automobile singly under its own power or in any other combination of two or more vehicles under the power of one of said vehicles upon any public highway for the purpose of delivery for sale or for delivery either before or after sale;

(b) **A person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or**

(c) **A person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;**

(11) "Dump truck", any open-top vehicle, including dump trailers, and those trailers commonly referred to as hopper trailers and/or belly dump trailers, that discharges its load by tipping or opening the body in such a manner that the load is ejected or dumped by gravity but does not include tank or other closed-top vehicles, or vehicles that discharge cargo by means of an auger, conveyor belt, air pressure, pump or other mechanical means;

(12) "Household goods", personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; new or used furniture; store or office furniture or fixtures; equipment of museums, institutions, hospitals and other establishments; and articles, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods;

(13) "Interstate commerce", commerce between a point in this state and a point outside this state, or between points outside this state when such commerce moves through this state whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by any other regulated means of transportation where the commodity does not come to rest or change its identity during the movement;

(14) "Intrastate commerce", commerce moving wholly between points within this state, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by any other means of transportation;

(15) "Irregular route", the course or line of travel to be used by a motor carrier's vehicle when not restricted to any specific route or routes within the area the motor carrier is authorized to serve;

(16) "Less-than-truckload lots", lots of freight, other than a truckload lot, being transported on the motor vehicle at one time;

(17) "Mobile home", house trailers, cabin trailers, bungalow trailers, mobile homes and any other transportable building unit designed to be used for residential, commercial, industrial or recreational purposes, including special equipment, wheels, tires, axles, springs, racks, undercarriages and undersupports used or useful in connection with the transportation of mobile homes when transported as part of the transportation of mobile homes;

(18) "Motor carrier", any person engaged in the transportation of property or passengers, or both, for compensation or hire, over the public roads of this state by motor vehicle. The term includes both common and contract carriers;

(19) "Motor vehicle", any vehicle, truck, truck-tractor, trailer, or semitrailer, motor bus or any self-propelled vehicle used upon the highways of the state in the transportation of property or passengers;

(20) "Party", any person admitted as a party to a division proceeding or seeking and entitled as a matter of right to admission to a division proceeding;

(21) "Permit", a permit issued under the provisions of this chapter to a contract carrier to engage in intrastate or interstate commerce or to a common carrier to engage in interstate commerce;

(22) "Person", any individual or other legal entity, whether such entity is a proprietorship, partnership, corporation, company, association or joint-stock association, including the partners, officers, employees, and agents of the person, as well as any trustees, assignees, receivers, or personal representatives of the person;

(23) "Private carrier", any person engaged in the transportation of property or passengers by motor vehicle upon public highways, but not as a common or contract carrier by motor vehicle; and includes any person who transports property by motor vehicle where such transportation is incidental to or in furtherance of his commercial enterprises;

(24) "Public highway", every public street, road, highway or thoroughfare of any kind used by the public, whether actually dedicated to the public;

(25) "Regular route", a specific and determined course to be traveled by a motor carrier's vehicle rendering service to, from or between various points or localities in this state;

(26) "School bus", any motor vehicle while being used solely to transport students to or from school or to transport students to or from any place for educational purposes or school purposes;

(27) "Taxicab", any motor vehicle performing a bona fide for hire taxicab service having a capacity of not more than five passengers, exclusive of the driver, and not operated on a regular route or between fixed termini;

(28) "Truckload lot", a lot or lots of freight tendered to a carrier by one consignor or one consignee for delivery at the direction of the consignor or consignee with the lot or lots being the only lot or lots transported on the motor vehicle at any one time.

390.136. MOTOR CARRIERS, REGULATORY LICENSE REQUIRED — ANNUAL, ISSUED WHEN — EMERGENCY OR TEMPORARY LICENSE FOR SEVENTY-TWO HOURS — FEES — OUT-OF-STATE AGREEMENTS, EFFECT — VIOLATION, PENALTY. — 1. No motor carrier, except as provided in section 390.030, shall operate any motor vehicle unless such vehicle shall be accompanied by an annual or seventy-two-hour, **regulatory** license issued by the [motor carrier and railroad safety division of the department of economic development] **state highways and transportation commission**; provided that when a motor carrier uses a truck-tractor for pulling trailers or semitrailers, such motor carrier may elect to license either the truck-tractor, trailer or semitrailer. The fee for each such [annual] **regulatory** license shall be ten dollars **per year** and shall be due and payable [on or before the last day of February of each calendar year] **as provided in this section**. Such [annual] license shall be issued [after October first of each year] in such form and shall be used pursuant to such reasonable rules and regulations as [the division of motor carrier and railroad safety may, by general order or otherwise, prescribe] **may be prescribed by the commission**.

2. Any [annual] **regulatory** license issued to a motor carrier for use in driveaway operations, as defined in this section, shall be issued to such motor carrier without reference to any particular vehicle and may be used interchangeably by the holder thereof on any motor vehicle or combinations thereof moving in driveaway operations under such carrier's **property carrier registration**, certificate, or permit.

3. In case of emergency, temporary, unusual or a peak demand for transportation, additional vehicles as described in subsection 1 of this section may be operated upon issuance [by the division] of a seventy-two-hour license for each vehicle so operated. The license fee for each such additional vehicle shall be the sum of five dollars for each seventy-two consecutive hours, or any portion thereof. Such licenses shall be issued, **renewed and staggered** in such form and shall be used pursuant to such reasonable rules and regulations as the [division may, by general order or otherwise,] **commission may** prescribe. No such additional vehicle which has been licensed pursuant to this subsection shall be operated without being accompanied by such license.

4. The [division, upon] **commission shall collect the applicable license fee prior to** the issuance of such license or licenses provided for in this section, **and** shall [notify the director of revenue, who shall] receive the license fee or fees and immediately deposit the same [with the state treasurer in] **to the credit of** the state [highway] **highways and transportation** department fund except **as otherwise provided in section 622.095, RSMo, or** when an agreement has been negotiated with another jurisdiction whereby prepayment is not required. In such cases, **section 622.095, RSMo, if applicable, or the [term] terms of** the agreement shall prevail.

5. Any person operating as a motor carrier who violates or fails to comply with any of the provisions of this section shall be adjudged guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

6. The [provisions of this section shall become effective for the 1989 registration year, and the] **regulatory license fee provided in this section** may be paid at any state weigh station.

7. The commission shall prescribe, for every regulatory license issued pursuant to this section, an effective date and an expiration date. Notwithstanding any provision of law

to the contrary, the commission may stagger the issuance of licenses pursuant to this section to begin at quarterly intervals during any calendar year. Not later than the expiration date of the current license, or as otherwise prescribed, each motor carrier shall pay the regulatory license fee for each vehicle that the carrier will operate during the next yearly period. The commission may issue partial or over one-year licenses during the transition from an annual license, to accommodate motor carriers in adding vehicles to their operations during the year, to coordinate the dates for a single carrier's licensing of multiple licenses, or for such other reasons as approved by the commission.

407.567. REPLACEMENT OF MOTOR VEHICLE OR REFUND OF PURCHASE PRICE, WHEN — ALLOWANCE DEDUCTED FOR CONSUMER'S USE — REIMBURSEMENT, WHEN, APPLICATION FOR. — 1. If the manufacturer, through its authorized dealer or its agent, cannot conform the new motor vehicle to any applicable express warranty by repairing or correcting any default or condition which impairs the use, market value, or safety of the new motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall, at its option, either replace the new motor vehicle with a comparable new vehicle acceptable to the consumer, or take title of the vehicle from the consumer and refund to the consumer the full purchase price, including all reasonably incurred collateral charges, less a reasonable allowance for the consumer's use of the vehicle. The subtraction of a reasonable allowance for use shall apply when either a replacement or refund of the new motor vehicle occurs.

2. Refunds shall be made to the consumer and lienholder of record, if any, as their interests may appear.

3. (1) Upon taking the title to a vehicle under this section, the manufacturer may apply to the department of revenue for a reimbursement equal to any amounts refunded to a consumer for any sales tax, license fees, registration fees, and title fees paid by the consumer as a result of purchasing the vehicle. Upon the receipt of a written request for a refund, accompanied by satisfactory proof that such sales tax and fees on the vehicle were paid when or after the vehicle was purchased and that the manufacturer has refunded such sales tax and fees to the consumer, lienholder, or lessor of the vehicle, the department of revenue shall refund to the manufacturer an amount equal to the amounts refunded to a consumer for such sales tax and fees paid by the consumer as a result of purchasing the vehicle.

(2) The manufacturer may, in lieu of applying to the department of revenue for a reimbursement under this subsection, direct the consumer to apply to the department of revenue for a refund of any sales tax, license fees, registration fees, and title fees paid by the consumer as a result of purchasing the vehicle. The manufacturer shall provide the consumer with the documentation required to prove that the consumer paid such sales tax and fees to the manufacturer. Upon the receipt of a written request by the consumer for a refund, accompanied by satisfactory proof that such sales tax and fees on the vehicle were paid when or after the vehicle was purchased, and a written statement from the manufacturer that such sales tax and fees were not refunded to the consumer, lienholder, or lessor of the vehicle, the department of revenue shall refund to the consumer an amount equal to the amounts for such sales tax and fees paid by the consumer as a result of purchasing the vehicle.

407.730. DEFINITIONS. — As used in sections 407.730 to 407.748, the following terms mean:

- (1) "Authorized driver":
 - (a) The renter;
 - (b) The renter's spouse if the spouse is a licensed driver and satisfies the car rental company's minimum age requirement;

(c) The renter's employee or co-worker if they are engaged in business activity with the person to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's minimum age requirements;

(d) Any person who operates the vehicle during an emergency situation; and

(e) Any person expressly listed by the car rental company on the renter's contract as an authorized driver;

(2) "Blackout date", any date on which an advertised price is totally unavailable to the public;

(3) "Car rental company", any person or entity in the business of renting private passenger vehicles to the public;

[(2)] (4) "Clear and conspicuous", that the statement, representation or term being disclosed is of such size, color contrast, and audibility and is so presented as to be readily noticed and understood by the person to whom it is being disclosed. All language and terms should be used in accordance with their common or ordinary usage and meaning;

[(3)] (5) "Collision damage waiver", any product a consumer purchases from a car rental company in order to waive all or part of his [liability in the event of a collision, other damage to] **responsibility for damages**, or loss [due to theft] of, a rental vehicle;

[(4)] (6) "Limited time availability", that the advertised rental price is only available for a specific period of time or that the price is not available during certain blackout periods;

[(5)] (7) "Material restriction", a restriction, limitation or other requirement which significantly affects the price of, use of, or a consumer's financial responsibility for a rental car;

[(6)] (8) "Mandatory charge", any charge, fee, or surcharge consumers must generally pay in order to obtain or operate a rental vehicle;

(9) "Car rental insurance", **products and services that are offered in connection with and incidental to the rental of a motor vehicle under subdivision (10) of subsection 1 of section 375.786, RSMo. This definition of optional car rental insurance or any other definition of insurance shall not include collision damage waiver;**

(10) "Rental agreement", any document or combination of documents, which, when read together and incorporated by reference to each other, relate to and establish the terms and conditions of the rental of a motor vehicle by an individual; or when such a combination of documents is entered into as part of any written master, corporate, group or individual agreement setting forth the terms and conditions governing the use of a rental car rented by a car rental company;

(11) "Master rental agreement", those documents used by a car rental company for expedited service to members in a program sponsored by the car rental company in which renters establish a profile and select preferences for rental needs which establish the terms and conditions governing the use of a rental car rented by a car rental company by a participant in a master rental agreement;

[(7)] (12) "Advertisement", oral, written, graphic or pictorial statements made in the course of solicitation of business including, without limitation, any statement or representation made in a newspaper, magazine, **the car rental company's proprietary web site**, or other publication, or contained in any notice, sign, poster, display, circular, pamphlet, or letter which may collectively be called "print advertisements", or on radio or television, which may be referred to as "broadcast commercials".

407.735. BUSINESS PRACTICES, NONDECEPTIVE — COLLISION DAMAGE WAIVER, TERMS, CONDITIONS, NOTICE REQUIRED — DAMAGES, ESTIMATES, HOW MADE — REMEDIES. — 1. Any business practices utilized by car rental companies in furtherance of their business of renting vehicles to the public shall be nondeceptive, fair and shall not be unconscionable.

2. Any collision damage waiver product offered for sale to the public shall not contain any provisions that are deceptive, unfair or unconscionable. It is deceptive, unfair, and

unconscionable to require a consumer to assume absolute liability for damage or loss up to the total value of a rental vehicle regardless of fault as a condition of the rental agreement, and then not include as part of any collision damage waiver product, a waiver of liability for any damage or loss which occurs as a result of the consumer's ordinary negligence, except where:

(1) The damage is caused intentionally by an authorized driver or as a result of his willful and wanton misconduct;

(2) The damage arises out of the authorized driver's operation of the vehicle while intoxicated or under the influence of any illegal or unauthorized drug;

(3) The rental transaction is based on fraudulent information supplied by the renter;

(4) The damage arises out of the use of the vehicle while committing or otherwise engaged in a criminal act in which the automobile usage is substantially related to the nature of the criminal activity;

(5) The damage arises out of the use of the vehicle to carry persons or property for hire;

(6) The damage occurs while the vehicle is operated by a person other than an authorized driver]. For the purposes of this subsection, "authorized driver" means the person to whom the vehicle is rented; the renter's spouse or other family members who are licensed drivers and satisfy the rental company's minimum age requirement; the renter's employer or co-worker if they are engaged in business activity with the person to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's minimum age requirement; any person who operates the vehicle during an emergency situation or while parking the vehicle at a commercial establishment; and any person expressly listed by the rental company on the rental agreement as an authorized driver] **as defined in section 407.730;**

(7) The damage arises out of the use of the vehicle outside of the United States unless such use is specifically authorized by the rental agreement;

(8) Towing or pushing anything or if operation of the vehicle on an unpaved road has resulted in damage or loss which is a direct result of the road or driving conditions;

(9) Loss due to the theft of the rental vehicle. However, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the **car** rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within twenty-four hours of learning of the theft and reasonably cooperates with the **car** rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the **car** rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

3. Any claim resulting from damage to or loss of a rental vehicle shall be reasonably and rationally related to the actual loss incurred. The **car** rental company shall not assert or collect any claim for physical or mechanical damage to or loss of a rental vehicle which exceeds: the actual cash value of the vehicle immediately before the loss less any proceeds from the vehicle's disposal after the loss, or the actual cost to repair the damaged vehicle including all discounts or price reductions, whichever is less. Such claim shall be based on an estimate of damage or repair invoice made by an independent appraisal company, an insurance company, or a repair facility that completed or would complete the repairs. A **car** rental company's charge for loss of use shall not exceed a reasonable estimate of the actual income lost.

4. It is a deceptive and unfair practice for a car rental company or employee to **knowingly and intentionally** misrepresent any **material** element of a rental agreement transaction [or to fail to disclose to consumers all material facts and restrictions applicable to the rental of a vehicle or in the sale of optional products or services] **including the sale of collision damage waiver and car rental insurance**. The company shall disclose **in the rental agreement** the extent of the consumer's liability for the vehicle and **applicable mileage limitations and charges**. **When the consumer elects the collision damage waiver or car rental insurance**, the price for collision

damage waiver and [applicable mileage limitations and charges] **car rental insurance shall appear on the rental agreement. A car rental company shall not require the purchase of collision damage waiver or car rental insurance.** No car rental company shall sell to a consumer or offer to sell a consumer a collision damage waiver [product] **or car rental insurance** as a part of the rental agreement unless the car rental company [first] provides the consumer with the following written notice:

[NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE VEHICLE. BEFORE YOU DECIDE WHETHER TO PURCHASE THE COLLISION DAMAGE WAIVER PRODUCT, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN VEHICLE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER PRODUCT IS NOT MANDATORY AND MAY BE DECLINED.] **COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE NOTICE: OUR CONTRACT OFFERS FOR AN ADDITIONAL CHARGE COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE PRODUCTS. BEFORE DECIDING WHETHER TO PURCHASE ANY OF THESE OPTIONAL PRODUCTS, YOU MAY WISH TO DETERMINE WHETHER YOUR PERSONAL INSURANCE OR CREDIT CARD PROVIDES YOU COVERAGE DURING THE RENTAL PERIOD. THE PURCHASE OF ANY OF THESE OPTIONAL PRODUCTS IS NOT REQUIRED TO RENT A VEHICLE.**

Such notice shall be made on the face of the rental agreement as part of the written contract[,] and shall be set apart in boldface type and in no smaller print than 10-point type, and shall include a space for the consumer to acknowledge his receipt of this notice. **This notice requirement shall be deemed satisfied if this written notice appears in materials furnished to a consumer during the enrollment process into a master rental agreement. This notice provision is deemed complied with for all consumers who have previously enrolled into a master rental agreement prior to the effective date of this statute and no further notice shall be required.**

5. The car rental company shall provide a notice at the rental office in the form of a sign, placard, or brochure that informs the consumer of the following:

- (1) The availability of collision damage waiver;
- (2) The availability of car rental insurance;
- (3) A statement that the purchase of collision damage waiver and/or car rental insurance is not required in order to rent.

The following language may be used to comply with the requirements of this section, but shall not be considered the exclusive language that may be used:

COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE NOTICE:

Our contract offers for an additional charge optional products which provide you protection during your rental, including:

1. **Collision Damage Waiver:** You are responsible for all damages to or loss of the rental vehicle. A Collision Damage Waiver will relieve you of responsibility for all or part of the damage to the rental vehicle that may occur during the rental period.

2. **Personal Accident Insurance:** Personal Accident Insurance provides accidental death and accident medical insurance that protects you during the rental period in or out of the rental vehicle and your passengers while in the rental vehicle.

3. **Personal Effects Coverage:** Personal Effects Coverage protects your possessions from loss or damage during the rental period.

4. **Liability Insurance:** Liability Insurance provides protection to cover injuries or death to third parties or damage to a third party's property if you are at fault in an accident with the rental vehicle during the rental period.

Before deciding to purchase any of these optional products, you may wish to determine whether your personal insurance or credit card provides you coverage during the rental period.

The purchase of any of these products is not required to rent a vehicle.

6. Car rental companies shall not place a hold against a consumer's credit limit or charge a consumer's credit card in a deceptive or unfair manner, and without full and complete disclosure of such practice.

7. The remedies for any violation by a car rental company of any provision of sections 407.730 to 407.735, or for any conduct, act, or practice prescribed by any provisions of sections 407.730 to 407.735, shall be injunctive relief and monetary damages in an amount not to exceed fifty dollars for each violation. The aggregate amount of monetary damages which may be assessed against a car rental company for violations of any provisions of sections 407.730 to 407.735, or for any conduct, act, or practice prescribed by any provisions of sections 407.730 to 407.735, shall not exceed the sum of one hundred thousand dollars in the aggregate during any calendar year.

407.1200. DEFINITIONS. — As used in sections 407.1200 to 407.1227, the following terms shall mean:

(1) "Administrator", the person who is responsible for the administration of the service contracts or the service contracts plan and who is responsible for any filings required by sections 407.1200 to 407.1227;

(2) "Consumer", a natural person who buys other than for purposes of resale any motor vehicle that is distributed in commerce and that is normally used for personal, family, or household purposes and not for business or research purposes;

(3) "Director", the director of the department of insurance;

(4) "Maintenance agreement", a contract of limited duration that provides for scheduled maintenance only;

(5) "Manufacturer", a person that:

(a) Manufactures or produces the property and sells the property under its own name or label;

(b) Is a wholly owned subsidiary of the person who manufactures or produces the property;

(c) Is a corporation which owns one hundred percent of the person who manufactures or produces the property;

(d) Does not manufacture or produce the property, but the property is sold under its trade name label;

(e) Manufactures or produces the property and the property is sold under the trade name or label of another person; or

(f) Does not manufacture or produce the property but, pursuant to a written contract, licenses the use of its trade name or label to another person that sells the property under the licensor's trade name or label;

(6) "Mechanical breakdown insurance", a policy, contract, or agreement issued by an authorized insurer that provides for the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or service, for the operational or structural failure of a motor vehicle due to a defect in materials or workmanship or to normal wear and tear;

(7) "Motor vehicle extended service contract" or "service contract", a contract or agreement for a separately stated consideration or for a specific duration to perform the repair, replacement, or maintenance of a motor vehicle or indemnification for repair, replacement, or maintenance, for the operational or structural failure due to a defect in materials, workmanship, or normal wear and tear, with or without additional provision for incidental payment of indemnity under limited circumstances, including, but not

limited to, towing, rental, and emergency road service, but does not include mechanical breakdown insurance or maintenance agreements;

(8) "Nonoriginal manufacturer's parts", replacement parts not made for or by the original manufacturer of the property, commonly referred to as "after market parts";

(9) "Person", an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert;

(10) "Premium", the consideration paid to an insurer for a reimbursement insurance policy;

(11) "Provider", a person who administers, issues, makes, provides, sells, or offers to sell a motor vehicle extended service contract, or who is contractually obligated to provide service under a motor vehicle extended service contract such as sellers, administrators, and other intermediaries;

(12) "Provider fee", the consideration paid for a service contract in excess of the premium;

(13) "Reimbursement insurance policy", a policy of insurance issued to a provider and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the provider under the terms of the service contracts in the event of nonperformance by the provider. All obligations and liabilities include, but are not limited to, failure of the provider to perform under the service contract and the return of the unearned provider fee in the event of the provider's unwillingness or inability to reimburse the unearned provider fee in the event of termination of a service contract;

(14) "Service contract holder" or "contract holder", a person who is the purchaser or holder of a services contract;

(15) "Warranty", a warranty made solely by the manufacturer, importer, or seller of property or services without charge, that is not negotiated or separated from the sale of the product and is incidental to the sale of the product, that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

407.1203. SERVICE CONTRACTS ISSUED, WHEN, REQUIREMENTS — REGISTRATION, FEE — FAITHFUL PERFORMANCE OF OBLIGATIONS, REQUIREMENTS — FEES NOT TAXABLE — LICENSING REQUIREMENT EXEMPTION, EXCEPTION — COMPLIANCE. — 1. Service contracts shall not be issued, sold, or offered for sale in this state unless the administrator or its designee has:

(1) Provided a receipt for the purchase of the service contract to the contract holder at the date of purchase;

(2) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase; and

(3) Complied with the provisions of sections 407.1200 to 407.1227.

2. All administrators of service contracts sold in this state shall file a registration with the director on a form, at a fee and at a frequency prescribed by the director.

3. In order to assure the faithful performance of a provider's obligations to its contract holders, each provider who is contractually obligated to provide service under a service contract shall:

(1) Insure all service contracts under a reimbursement insurance policy issued by an insurer authorized to transact insurance in this state; or

(2) (a) Maintain a funded reserve account for its obligation under its contracts issued and outstanding in this state. The reserves shall not be less than forty percent of gross consideration received, less claims paid, on the sale of the service contract for all in-force contracts. The reserve account shall be subject to examination and review by the director; and

(b) Place in trust with the director a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

- a. A surety bond issued by an authorized surety;
- b. Securities of the type eligible for deposit by authorized insurers in this state;
- c. Cash;
- d. A letter of credit issued by a qualified financial institution; or
- e. Another form of security prescribed by regulations issued by the director; or

(3) (a) Maintain a net worth of one hundred million dollars; and

(b) Upon request, provide the director with a copy of the provider's or, if the provider's financial statements are consolidated with those of its parent company, the provider's parent company's most recent Form 10-K filed with the Securities and Exchange Commission (SEC) within the last calendar year, or if the company does not file with the SEC, a copy of the company's audited financial statements, which shows a net worth of the provider or its parent company of at least one hundred million dollars. If the provider's parent company's Form 10-K or audited financial statements are filed to meet the provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the obligor relating to service contracts sold by the provider in this state.

4. Provider fees collected on service contracts shall not be subject to premium taxes. Premiums for reimbursement insurance policies shall be subject to applicable premium taxes.

5. Except for the registration requirement in subsection 2 of this section, persons marketing, selling, or offering to sell service contracts for providers that comply with sections 407.1200 to 407.1227 are exempt from this state's licensing requirements.

6. Providers complying with the provisions of sections 407.1200 to 407.1227 are not required to comply with other provisions of chapters 374 or 375, or any other provisions governing insurance companies, except as specifically provided.

407.1206. INSURANCE POLICIES TO STATE INSURER'S DUTY TO PAY OR PROVIDE SERVICE. — Reimbursement insurance policies insuring service contracts issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the provider to perform under the contract, such as failure to return the unearned provider fee, the insurer that issued the policy shall pay on behalf of the provider any sums the provider is legally obligated to pay or shall provide the service which the provider is legally obligated to perform according to the provider's contractual obligations under the service contracts issued or sold by the provider.

407.1209. SERVICE CONTRACT FORM — REQUIRED STATEMENTS — REQUIRED CONTENTS — RETURN OF CONTRACT, WHEN — ADDITIONAL REQUIRED CONTENTS. — 1. Service contracts issued, sold, or offered for sale in this state shall be written in clear, understandable language and the entire contract shall be printed or typed in easy to read ten point type or larger and conspicuously disclose the requirements in this section, as applicable.

2. Service contracts insured under a reimbursement insurance policy pursuant to subsection 3 of section 407.1203 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. If the provider fails to pay or provide service on a claim within sixty days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the insurance company." A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the insurer.

3. Service contracts not insured under a reimbursement insurance policy pursuant to subsection 3 of section 407.1203 shall contain a statement in substantially the following form: "Obligations of the provider under this service contract are backed only by the full faith and credit of the provider (issuer) and are not guaranteed under a service contract reimbursement insurance policy." A claim against the provider shall also include a claim for return of the unearned provider fee. The service contract shall also conspicuously state the name and address of the provider.

4. Service contracts shall identify any administrator, the provider obligated to perform the service under the contract, the service contract seller, and the service contract holder to the extent that the name and address of the service contract holder has been furnished by the service contract holder.

5. Service contracts shall conspicuously state the total purchase price and the terms under which the service contract is sold. The purchase price is not required to be pre-printed on the service contract and may be negotiated at the time of sale with the service contract holder.

6. If prior approval of repair work is required, the service contracts shall conspicuously state the procedure for obtaining prior approval and for making a claim, including a toll-free telephone number for claim service and a procedure for obtaining emergency repairs performed outside of normal business hours.

7. Service contracts shall conspicuously state the existence of any deductible amount.

8. Service contracts shall specify the merchandise and services to be provided and any limitations, exceptions, and exclusions.

9. Service contracts shall state the conditions upon which the use of nonoriginal manufacturer's parts, or substitute service, may be allowed. Conditions stated shall comply with applicable state and federal laws.

10. Service contracts shall state any terms, restrictions, or conditions governing the transferability of the service contract.

11. Service contracts shall state the terms, restrictions, or conditions governing termination of the service contract by the service contract holder. The provider of the service contract shall mail a written notice to the contract holder within fifteen days of the date of termination.

12. Service contracts shall require every provider to permit the service contract holder to return the contract within at least twenty business days of the date of mailing of the service contract or within at least ten days if the service contract is delivered at the time of sale or within a longer time period permitted under the contract. If no claim has been made under the contract, the contract is void and the provider shall refund to the contract holder the full purchase price of the contract. A ten percent penalty per month shall be added to a refund that is not paid within thirty days of return of the contract to the provider. The applicable free-look time periods on service contracts shall only apply to the original service contract purchaser.

13. Service contracts shall set forth all of the obligations and duties of the service contract holder, such as the duty to protect against any further damage and the requirement for certain service and maintenance.

14. Service contracts shall clearly state whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

407.1212. PROVIDER'S USE OF NAME PROHIBITED, WHEN — FALSE STATEMENTS PROHIBITED — PURCHASE OF SERVICE CONTRACT NOT REQUIRED, WHEN. — 1. A provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or any other provider. This section shall not apply to a company that was using any of the

prohibited language in its name prior to August 28, 2004. However, a company using the prohibited language in its name shall conspicuously disclose in its service contract the following statement: "This agreement is not an insurance contract."

2. A provider or its representative shall not in its service contracts or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted, in connection with the sale, offer to sell or advertisement of a service contract.

3. A person, such as a bank, savings and loan association, lending institution, manufacturer or seller of any product, shall not require the purchase of a service contract as a condition of a loan or a condition for the sale of any property.

407.1215. ACCURATE RECORDS REQUIRED — RECORD CONTENTS — RECORDS RETAINED, TIME PERIOD — ELECTRONIC RECORDS — DISCONTINUED BUSINESS RECORDS MAINTAINED, TIME PERIOD — RECORDS AVAILABLE TO DIRECTOR UPON REQUEST. — 1. An administrator, provider, or other intermediary shall keep accurate accounts, books, and records concerning transactions regulated by sections 407.1200 to 407.1227.

2. An administrator's, provider's, or other intermediary's accounts, books, and records shall include:

- (1) Copies of each type of service contract issued;
- (2) The name and address of each service contract holder to the extent that the name and address have been furnished by the service contract holder;
- (3) A list of the provider locations where service contracts are marketed, sold, or offered for sale; and
- (4) Claims files which shall contain at least the dates, amounts, and description of all receipts, claims, and expenditures related to the service contracts.

3. Except as provided in this section, an administrator shall retain all records pertaining to each service contract holder for at least three years after the specified period of coverage has expired.

4. An administrator, provider, or other intermediary may keep all records required pursuant to sections 407.1200 to 407.1227 on a computer disk or other similar technology. If an administrator, provider, or other intermediary maintains records in other than hard copy, records shall be accessible from a computer terminal available to the director and be capable of duplication to legible hard copy.

5. An administrator, provider, or other intermediary discontinuing business in this state shall maintain its records until it furnishes the director satisfactory proof that it has discharged all obligations to contract holders in this state.

6. An administrator, provider, or other intermediary shall make all accounts, books, and records concerning transactions regulated pursuant to sections 407.1200 to 407.1227 or other pertinent laws available to the director upon request.

407.1218. NOTICE OF TERMINATION REQUIRED BEFORE TERMINATION. — As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination, in a form and time frame prescribed by the director, has been mailed or delivered to the director. The termination of a reimbursement insurance policy shall not reduce the issuer's responsibility for service contracts issued by providers prior to the date of the termination.

407.1221. PROVIDERS CONSIDERED AGENTS OF INSURER — INDEMNIFICATION NOT PROHIBITED. — 1. Providers are considered to be the agent of the insurer that issued the reimbursement insurance policy. In cases where a provider is acting as an administrator and enlists other providers, the provider acting as the administrator shall notify the insurer of the existence and identities of the other providers.

2. The provisions of sections 407.1200 to 407.1227 shall not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a provider if the insurer pays or is obligated to pay the service contract holder sums that the provider was obligated to pay pursuant to the provisions of the service contract or under a contractual agreement.

407.1224. DIRECTOR'S POWERS — HEARING MAY BE REQUESTED — DIRECTOR'S DUTY — DIRECTOR MAY SEEK INJUNCTION — PENALTY. — 1. The director may conduct investigations or examinations of providers, administrators, insurers, or other persons to enforce the provisions of sections 407.1200 to 407.1227 and protect service contract holders in this state.

2. The director may take action that is necessary or appropriate to enforce the provisions of sections 407.1200 to 407.1227 and the director's regulations and orders, and to protect service contract holders in this state.

3. The director may order a service contract provider to cease and desist from committing violations of sections 407.1200 to 407.1227 or the director's regulations or orders, may issue an order prohibiting a service contract provider from selling or offering for sale service contracts, or may issue an order imposing a civil penalty, or any combination of these, if the provider has violated the provisions of sections 407.1200 to 407.1227 or the director's regulations or orders.

4. A person aggrieved by an order pursuant to this section may request a hearing before the director. The hearing request shall be filed with the director within twenty days of the date the director's order is effective.

5. Pending the hearing and the decision by the director, the director shall suspend the effective date of the order. At the hearing, the burden shall be on the director to show why the order issued pursuant to this section is justified. Such hearing shall be held in accordance with the provisions of chapter 536, RSMo.

6. The director may bring an action in the circuit court of Cole county for an injunction or other appropriate relief to enjoin threatened or existing violations of sections 407.1200 to 407.1227 or of the director's orders or regulations. An action filed pursuant to this section may also seek restitution on behalf of persons aggrieved by a violation of sections 407.1200 to 407.1227 or orders or regulations of the director.

7. A person in violation of sections 407.1200 to 407.1227 or orders or regulation of the director may be assessed a civil penalty not to exceed one thousand dollars per violation.

8. The authority of the director pursuant to this section is in addition to other authority of the director.

407.1225. RULEMAKING AUTHORITY. — The director may promulgate rules to effectuate sections 407.1200 to 407.1227. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

407.1227. LIMITATIONS ON APPLICATION OF SERVICE CONTRACT LAW. — 1. The provisions of sections 407.1200 to 407.1224 shall not apply to:

- (1) Warranties;
 - (2) Maintenance agreements;
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- (3) Commercial transactions; and
 - (4) Service contracts sold or offered for sale to persons other than consumers.
2. Manufacturer's contracts on the manufacturer's products need only comply with the provisions of sections 407.1209, 407.1212, and 407.1224.

408.140. ADDITIONAL CHARGES OR FEES PROHIBITED, EXCEPTIONS — NO FINANCE CHARGES IF PURCHASES ARE PAID FOR WITHIN CERTAIN TIME LIMIT, EXCEPTION. — 1. No further or other charge or amount whatsoever shall be directly or indirectly charged, contracted for or received for interest, service charges or other fees as an incident to any such extension of credit except as provided and regulated by sections 367.100 to 367.200, RSMo, and except:

(1) On loans for thirty days or longer which are other than "open-end credit" as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, a fee, not to exceed five percent of the principal amount loaned not to exceed seventy-five dollars may be charged by the lender; however, no such fee shall be permitted on any extension, refinance, restructure or renewal of any such loan, unless any investigation is made on the application to extend, refinance, restructure or renew the loan;

(2) The lawful fees actually and necessarily paid out by the lender to any public officer for filing, recording, or releasing in any public office any instrument securing the loan, which fees may be collected when the loan is made or at any time thereafter; however, premiums for insurance in lieu of perfecting a security interest required by the lender may be charged if the premium does not exceed the fees which would otherwise be payable;

(3) If the contract so provides, a charge for late payment on each installment or minimum payment in default for a period of not less than fifteen days in an amount not to exceed five percent of each installment due or the minimum payment due or fifteen dollars, whichever is greater, not to exceed fifty dollars; except that, a minimum charge of ten dollars may be made. If the contract so provides, a charge for late payment on each twenty-five dollars or less installment in default for a period of not less than fifteen days shall not exceed five dollars;

(4) If the contract so provides, a charge for late payment for a single payment note in default for a period of not less than fifteen days in an amount not to exceed five percent of the payment due; provided that, the late charge for a single payment note shall not exceed fifty dollars;

(5) Charges or premiums for insurance written in connection with any loan against loss of or damage to property or against liability arising out of ownership or use of property as provided in section 367.170, RSMo; however, notwithstanding any other provision of law, with the consent of the borrower, such insurance may cover property all or part of which is pledged as security for the loan, and charges or premiums for insurance providing life, health, accident, or involuntary unemployment coverage;

(6) **Reasonable towing costs and expenses of retaking, holding, preparing for sale, and selling any personal property in accordance with section 400.9, RSMo;**

7. Charges assessed by any institution for processing a refused instrument plus a handling fee of not more than twenty-five dollars;

[(7)] (8) If the contract or promissory note, signed by the borrower, provides for attorney fees, and if it is necessary to bring suit, such attorney fees may not exceed fifteen percent of the amount due and payable under such contract or promissory note, together with any court costs assessed. The attorney fees shall only be applicable where the contract or promissory note is referred for collection to an attorney, and is not handled by a salaried employee of the holder of the contract;

[(8)] (9) Provided the debtor agrees in writing, the lender may collect a fee in advance for allowing the debtor to defer up to three monthly loan payments, so long as the fee is no more than the lesser of fifty dollars or ten percent of the loan payments deferred, no extensions are made until the first loan payment is collected and no more than one deferral in a twelve-month

period is agreed to and collected on any one loan; this subdivision applies to nonprecomputed loans only and does not affect any other subdivision;

[(9)] (10) If the open-end credit contract is tied to a transaction account in a depository institution, such account is in the institution's assets and such contract provides for loans of thirty-one days or longer which are "open-end credit", as such term is defined in the federal Consumer Credit Protection Act and regulations thereunder, the creditor may charge a credit advance fee of the lesser of twenty-five dollars or five percent of the credit advanced from time to time from the line of credit; such credit advance fee may be added to the open-end credit outstanding along with any interest, and shall not be considered the unlawful compounding of interest as that term is defined in section 408.120.

2. Other provisions of law to the contrary notwithstanding, an open-end credit contract under which a credit card is issued by a company, financial institution, savings and loan or other credit issuing company whose credit card operations are located in Missouri may charge an annual fee, provided that no finance charge shall be assessed on new purchases other than cash advances if such purchases are paid for within twenty-five days of the date of the periodic statement therefor.

3. Notwithstanding any other provision of law to the contrary, in addition to charges allowed pursuant to section 408.100, an open-end credit contract provided by a company, financial institution, savings and loan or other credit issuing company which is regulated pursuant to this chapter may charge an annual fee not to exceed fifty dollars.

577.054. ALCOHOL-RELATED DRIVING OFFENSES, EXPUNGED FROM RECORDS, WHEN — PROCEDURES, EFFECT — LIMITATIONS — 1. After a period of not less than ten years, an individual who has pleaded guilty or has been convicted for a first alcohol-related driving offense which is a misdemeanor or a county or city ordinance violation and which is not a conviction for driving a commercial motor vehicle while under the influence of alcohol and who since such date has not been convicted of any other alcohol-related driving offense may apply to the court in which he **or she** pled guilty or was sentenced for an order to expunge from all official records all recollections of his **or her** arrest, plea, trial or conviction. If the court determines, after hearing, that such person has not been convicted of any alcohol-related driving offense in the ten years prior to the date of the application for expungement, and has no other alcohol-related enforcement contacts as defined in section 302.525, RSMo, during that ten-year period, the court shall enter an order of expungement. The effect of such order shall be to restore such person to the status he **or she** occupied prior to such arrest, plea or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his **or her** failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him **or her** for any purpose whatsoever and no such inquiry shall be made for information relating to an expungement under this section. A person shall only be entitled to one expungement pursuant to this section. Nothing contained in this section shall prevent the director from maintaining such records as to ensure that an individual receives only one expungement pursuant to this section for the purpose of informing the proper authorities of the contents of any record maintained pursuant to this section.

2. **The provisions of this section shall not apply to any individual who has been issued a commercial driver's license or is required to possess a commercial driver's license issued by this state or any other state.**

577.080. ABANDONING MOTOR VEHICLE — LAST OWNER OF RECORD DEEMED THE OWNER OF ABANDONED MOTOR VEHICLE, PROCEDURES — PENALTY — CIVIL LIABILITY. — 1. A person commits the crime of abandoning a motor vehicle **or trailer** if he abandons any motor vehicle **or trailer** on the right-of-way of any public road or state highway or on or in any of the waters in this state or on the banks of any stream, or on any land or water owned, operated

or leased by the state, any board, department, agency or commission thereof, or any political subdivision thereof or on any land or water owned, operated or leased by the federal government or on any private real property owned by another without his consent.

2. **For purposes of this section, the last owner of record of a motor vehicle or trailer found abandoned and not shown to be transferred pursuant to sections 301.196 and 301.197, RSMo, shall be deemed prima facie to have been the owner of such motor vehicle or trailer at the time it was abandoned and to have been the person who abandoned the motor vehicle or trailer or caused or procured its abandonment. The registered owner of the abandoned motor vehicle or trailer shall not be subject to the penalties provided by this section if the motor vehicle or trailer was in the care, custody, or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address, and other pertinent information of the person who leased, rented, or otherwise had care, custody, or control of the motor vehicle or trailer at the time of the alleged violation. The affidavit submitted pursuant to this subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the motor vehicle or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the motor vehicle or trailer is alleged to have been stolen, the owner of the motor vehicle or trailer shall submit proof that a police report was filed in a timely manner indicating that the vehicle was stolen at the time of the alleged violation.**

3. Abandoning a motor vehicle or trailer is a class A misdemeanor.

4. **Any person convicted pursuant to this section shall be civilly liable for all reasonable towing, storage, and administrative costs associated with the abandonment of the motor vehicle or trailer. Any reasonable towing, storage, and administrative costs in excess of the value of the abandoned motor vehicle or trailer that exist at the time the motor vehicle is transferred pursuant to section 304.156, RSMo, shall remain the liability of the person convicted pursuant to this section so long as the towing company, as defined in chapter 304, RSMo, provided the title owner and lienholders, as ascertained by the department of revenue records, a notice within the timeframe and in the form as described in subsection 1 of section 304.156, RSMo.**

590.650. RACIAL PROFILING — MINORITY GROUP DEFINED — REPORTING REQUIREMENTS — ANNUAL REPORT — REVIEW OF FINDINGS — FAILURE TO COMPLY — FUNDS FOR AUDIO-VISUAL EQUIPMENT — SOBRIETY CHECK POINTS EXEMPT. — 1. As used in this section "minority group" means individuals of African, Hispanic, Native American or Asian descent.

2. Each time a peace officer stops a driver of a motor vehicle [for a violation of any motor vehicle statute or ordinance], that officer shall report the following information to the law enforcement agency that employs the officer:

- (1) The age, gender and race or minority group of the individual stopped;
- (2) The [traffic violation or violations alleged to have been committed that led to] **reasons for the stop;**
- (3) Whether a search was conducted as a result of the stop;
- (4) If a search was conducted, whether the individual consented to the search, the probable cause for the search, whether the person was searched, whether the person's property was searched, and the duration of the search;
- (5) Whether any contraband was discovered in the course of the search and the type of any contraband discovered;
- (6) Whether any warning or citation was issued as a result of the stop;
- (7) If a warning or citation was issued, the violation charged or warning provided;

- (8) Whether an arrest was made as a result of either the stop or the search;
- (9) If an arrest was made, the crime charged; and
- (10) The location of the stop.

Such information may be reported using a format determined by the department of public safety which uses existing citation and report forms.

3. (1) Each law enforcement agency shall compile the data described in subsection 2 of this section for the calendar year into a report to the attorney general.

(2) Each law enforcement agency shall submit the report to the attorney general no later than March first of the following calendar year.

(3) The attorney general shall determine the format that all law enforcement agencies shall use to submit the report.

4. (1) The attorney general shall analyze the annual reports of law enforcement agencies required by this section and submit a report of the findings to the governor, the general assembly and each law enforcement agency no later than June first of each year.

(2) The report of the attorney general shall include at least the following information for each agency:

(a) The total number of vehicles stopped by peace officers during the previous calendar year;

(b) The number and percentage of stopped motor vehicles that were driven by members of each particular minority group;

(c) A comparison of the percentage of stopped motor vehicles driven by each minority group and the percentage of the state's population that each minority group comprises; and

(d) A compilation of the information reported by law enforcement agencies pursuant to subsection 2 of this section.

5. Each law enforcement agency shall adopt a policy on race-based traffic stops that:

(1) Prohibits the practice of routinely stopping members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law;

(2) Provides for periodic reviews by the law enforcement agency of the annual report of the attorney general required by subsection 4 of this section that:

(a) Determine whether any peace officers of the law enforcement agency have a pattern of stopping members of minority groups for violations of vehicle laws in a number disproportionate to the population of minority groups residing or traveling within the jurisdiction of the law enforcement agency; and

(b) If the review reveals a pattern, require an investigation to determine whether any peace officers of the law enforcement agency routinely stop members of minority groups for violations of vehicle laws as a pretext for investigating other violations of criminal law; and

(3) Provides for appropriate counseling and training of any peace officer found to have engaged in race-based traffic stops within ninety days of the review.

The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

6. If a law enforcement agency fails to comply with the provisions of this section, the governor may withhold any state funds appropriated to the noncompliant law enforcement agency.

7. Each law enforcement agency in this state may utilize federal funds from community-oriented policing services grants or any other federal sources to equip each vehicle used for traffic stops with a video camera and voice-activated microphone.

8. A peace officer who stops a driver of a motor vehicle pursuant to a lawfully conducted sobriety check point or road block shall be exempt from the reporting requirements of subsection 2 of this section.

622.095. DIVISION AUTHORIZED TO CONTRACT WITH OTHER JURISDICTIONS — UNIFORM ADMINISTRATION OF CERTAIN INTERSTATE VEHICLES — POWERS — BASE STATE REGISTRATION FUND ESTABLISHED — PROPERLY REGISTERED VEHICLE OPERATION ALLOWED — FEES MAY BE STAGGERED AND PRORATED. — 1. In addition to its other powers, the [division of motor carrier and railroad safety] **state highways and transportation commission** may negotiate and enter into fair and equitable cooperative agreements or contracts with other states, the District of Columbia, territories and possessions of the United States, foreign countries, and any of their officials, agents or instrumentalities, to promote cooperative action and mutual assistance between the participating jurisdictions with regard to the uniform administration and registration, through a single base jurisdiction for each registrant, of [interstate commerce commission] **Federal Motor Carrier Safety Administration** operating authority and exempt operations by motor vehicles operated in interstate commerce. Notwithstanding any other provision of law to the contrary, and in accordance with the provisions of such agreements or contracts between participating jurisdictions, the [division] **commission** may:

(1) Delegate to other participating jurisdictions the authority and responsibility to collect and pay over [to the division] statutory registration, administration or license fees; to receive, approve and maintain the required proof of public liability insurance coverage; to receive, process, maintain and transmit registration information and documentation; to issue evidence of proper registration in lieu of [interstate] **certificates, licenses, or permits** [under section 390.071, RSMo; to] **which the commission may** issue motor vehicle licenses or identifiers in lieu of [annual] **regulatory** licenses under section 390.136, RSMo; and to suspend or revoke any **credential**, approval, registration, **certificate, permit**, license, or identifier referred to in this section, as agents on behalf of the [division] **commission** with regard to motor vehicle operations by persons having a base jurisdiction other than this state;

(2) Assume the authority and responsibility on behalf of other jurisdictions participating in such agreements or contracts to collect and direct the department of revenue to pay over to the appropriate jurisdictions statutory registration, administration or license fees, and to perform all other activities described in subdivision (1) of this subsection, on its own behalf or as an agent on behalf of other participating jurisdictions, with regard to motor vehicle operations in interstate commerce by persons having this state as their base jurisdiction;

(3) Establish or modify dates for the payment of fees and the issuance of annual motor vehicle licenses or identifiers in conformity with such agreements or contracts, notwithstanding any provisions of section 390.136, RSMo, to the contrary; and

(4) Modify, cancel or terminate any of the agreements or contracts.

2. Notwithstanding the provisions of section 390.136, RSMo, statutory registration, administration or license fees collected by the [division] **commission** on behalf of other jurisdictions under such agreements or contracts are hereby designated as "nonstate funds" within the meaning of section 15, article IV, Constitution of Missouri, and shall be immediately transmitted to the department of revenue of the state for deposit to the credit of a special fund which is hereby created and designated as the "Base State Registration Fund". The [division] **commission** shall [not less frequently than once each month] direct the payment of, and the director of revenue shall pay, the fees so collected to the appropriate other jurisdictions. All income derived from the investment of the base state registration fund by the director of revenue shall be credited to the [highway] **state highways and transportation** department fund.

3. "Base jurisdiction", as used in this section, means the jurisdiction participating in such agreements or contracts where the registrant has its principal place of business.

4. Every person who has properly registered his **or her** interstate [commerce commission] operating authority or exempt operations with his **or her** base jurisdiction and maintains such registration in force in accordance with such agreements or contracts is authorized to operate in interstate commerce within this state any motor vehicle which is accompanied by a valid annual license or identifier issued by his base jurisdiction in accordance with such agreements or

contracts, notwithstanding any provision of section 390.071, 390.126 or 390.136, RSMo, or rules of the [division] **commission** to the contrary.

5. Notwithstanding any provision of law to the contrary, the commission may stagger and prorate the payment and collection of license fees pursuant to this section for the purposes of:

- (1) Coordinating the issuance of regulatory licenses under this section with issuance of other motor carrier credentials; and**
- (2) Complying with any federal law or regulation.**

622.350. BURDEN OF PROOF IN ALL PROCEEDINGS. — In all trials, actions, suits and proceedings arising under the provisions of this chapter or growing out of the exercise of the authority and powers granted in this chapter to the [division] **state highways and transportation commission**, the burden of proof shall be upon [the party adverse to the division] **state highways and transportation commission**. **The state highways and transportation commission shall** [or seeking to set aside any determination, requirement, direction or order of the division, to] show by clear and satisfactory evidence that the determination, requirement, direction or order of the [division] **state highways and transportation commission is reasonable or lawful** [complained of is unreasonable or unlawful] as the case may be.

700.320. CERTIFICATE OF TITLE, APPLICATION PROCEDURE, FEES — PAYMENT OF SALES TAX BEFORE ISSUANCE — PURCHASE PRICE, DEFINED — CERTIFICATES MAY BE TRANSFERRED, WHEN, PROCEDURE. — 1. The owner of any new or used manufactured home, as defined in section 700.010, shall make application to the director of revenue for an official certificate of title to such manufactured home in the manner prescribed by law for the acquisition of certificates of title to motor vehicles, and the rules promulgated pursuant thereto. All fees required by section 301.190, RSMo, for the titling of motor vehicles and all penalties provided by law for the failure to title motor vehicles shall apply to persons required to make application for an official certificate of title by this subsection. In case there is any duplication in serial numbers assigned any manufactured homes, or no serial number has been assigned by the manufacturer, the director shall assign the serial numbers for the manufactured homes involved.

2. At the time the owner of any new manufactured home, as defined in section 700.010, which was acquired in a transaction subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title for such manufactured home, he shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the manufactured home, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new manufactured home subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510, RSMo, has been paid as provided in this section. As used in this subsection, the term "purchase price" shall mean the total amount of the contract price agreed upon between the seller and the applicant in the acquisition of the new manufactured home regardless of the medium of payment therefor. In the event that the purchase price is unknown or undisclosed, or that the evidence thereof is not satisfactory to the director of revenue, the same shall be fixed by appraisalment by the director. The director of the department of revenue shall endorse upon the official certificate of title issued by him upon such application an entry showing that such sales tax has been paid or that the manufactured home represented by the certificate is exempt from sales tax and state the ground for such exemption.

3. A certificate of title for a manufactured home issued in the names of two or more persons that does not show on the face of the certificate that the persons hold their interest in the manufactured home as tenants in common, on death of one of the named persons, may be transferred to the surviving owner or owners. On proof of death of one of the persons in whose names the certificate was issued, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the manufactured home to the surviving owner or owners; and the current valid certificate of number shall be so transferred.

4. A certificate of title for a manufactured home issued in the names of two or more persons that shows on its face that the persons hold their interest in the manufactured home as tenants in common, on death of one of the named persons, may be transferred by the director of revenue on application by the surviving owners and the personal representative or successors of the deceased owner. Upon being presented proof of death of one of the persons in whose names the certificate of title was issued, surrender of the outstanding certificate of title, and on application and payment of the fee for an original certificate of title, the director of revenue shall issue a new certificate of title for the manufactured home to the surviving owners and personal representative or successors of the deceased owner; and the current valid certificate of number shall be so transferred.

SECTION 1. SURVIVORSHIP INTEREST IN MANUFACTURED HOMES — ISSUANCE OF CERTIFICATES OF OWNERSHIP, REQUIREMENTS, RESTRICTIONS. — 1. A sole owner of a manufactured home, and multiple owners of a manufactured home who hold their interest as joint tenants with right of survivorship or as tenants by the entirety, on application and payment of the fee required for an original certificate of ownership, may request the director of revenue to issue a certificate of ownership for the manufactured home in beneficiary form which includes a directive to the director of revenue to transfer the certificate of ownership on death of the sole owner or on death of all multiple owners to one beneficiary or to two or more beneficiaries as joint tenants with right of survivorship or as tenants by the entirety named on the face of the certificate. The directive to the director of revenue shall also permit the beneficiary or beneficiaries to make one reassignment of the original certificate of ownership upon the death of the owner to another owner without transferring the certificate to the beneficiary or beneficiaries' name.

2. A certificate of ownership in beneficiary form may not be issued to persons who hold their interest in a manufactured home as tenants in common.

3. A certificate of ownership issued in beneficiary form shall include after the name of the owner, or after the names of multiple owners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

4. (1) During the lifetime of a sole owner and during the lifetime of all multiple owners, the signature or consent of the beneficiary or beneficiaries shall not be required for any transaction relating to the manufactured home for which a certificate of ownership in beneficiary form has been issued.

(2) A certificate of ownership in beneficiary form may be revoked or the beneficiary or beneficiaries changed at any time before the death of a sole owner or surviving multiple owner only by the following methods:

(a) By a sale of the manufactured home with proper assignment and delivery of the certificate of ownership to another person; or

(b) By filing an application to reissue the certificate of ownership with no designation of a beneficiary or with the designation of a different beneficiary or beneficiaries with the director of revenue in proper form and accompanied by the payment of the fee for an original certificate of ownership.

(3) The beneficiary's or beneficiaries' interest in the manufactured homes at death of the owner or surviving owner shall be subject to any contract of sale, assignment of ownership or security interest to which the owner or owners of the manufactured home were subject during their lifetime.

(4) The designation of a beneficiary or beneficiaries in a certificate of ownership issued in beneficiary form may not be changed or revoked by a will, any other instrument, or a change in circumstances, or otherwise be changed or revoked except as provided by subdivision (2) of this subsection.

5. (1) On proof of death of one of the owners of two or more multiple owners, or of a sole owner, surrender of the outstanding certificate of ownership, and on application and payment of the fee for an original certificate of ownership, the director of revenue shall issue a new certificate of ownership for the manufactured home to the surviving owner or owners or, if none, to the surviving beneficiary or beneficiaries, subject to any outstanding security interest; and the current valid certificate of number shall be so transferred. If the surviving beneficiary or beneficiaries makes a request of the director of revenue, the director may allow the beneficiary or beneficiaries to make one assignment of title.

(2) The director of revenue may rely on a death certificate or record or report that constitutes prima facie proof or evidence of death under subdivisions (1) and (2) of section 472.290, RSMo.

(3) The transfer of a manufactured home at death pursuant to this section is not to be considered as testamentary, or to be subject to the requirements of section 473.087, RSMo, or section 474.320, RSMo.

SECTION 2. LAWFULLY PRESENT DEFINED. — For the purposes of sections 302.130, 302.171, 302.177, 302.181, 302.720, and 302.735, RSMo, United States citizens shall be considered "lawfully present" regardless of their physical location at any given time.

[390.340. ANNUAL LICENSES REQUIRED BY 390.136, PERIOD OF EFFECTIVENESS, FEES, WHEN DUE. — Notwithstanding any provisions of section 390.136, to the contrary, beginning with the first calendar year after August 28, 1996, the annual licenses required pursuant to section 390.136, with reference to motor vehicles operated by motor carriers shall be effective from January first to December thirty-first of the year for which they are issued, and the annual license fees for each calendar year shall be due and payable on or before the thirty-first day of December in the year immediately preceding the year for which they are issued. The division shall begin issuing the annual licenses on August first of each year for the succeeding calendar year, but this shall not preclude the division from continuing to issue the current year's licenses as needed for the remainder of the current calendar year.]

[622.618. MOTOR CARRIERS, LICENSE REQUIRED — ANNUAL, ISSUED WHEN — ANNUAL LICENSE FEES. — Notwithstanding any provisions of section 390.136, RSMo, to the contrary, beginning with the first calendar year after August 28, 1996, the annual licenses required pursuant to section 390.136, RSMo, with reference to motor vehicles operated by motor carriers shall be effective from January first to December thirty-first of the year for which they are issued, and the annual license fees for each calendar year shall be due and payable on or before the thirty-first day of December in the year immediately preceding the year for which they are issued. The division shall begin issuing the annual licenses on August first of each year for the succeeding calendar year, but this shall not preclude the division from continuing to issue the current year's licenses as needed for the remainder of the current calendar year.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to deter the commission of fraud in the obtaining of driver's licenses in this state, the repeal and reenactment

of section 302.230 of section A of this act and the enactment of section 302.233 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 302.230 of section A of this act and the enactment of section 302.233 of section A of this act shall be in full force and effect upon its passage and approval.

SECTION C. EFFECTIVE DATE. — The repeal and reenactment of sections 21.795, 67.1808, 301.132, 301.141, 301.142, 301.143, 301.144, 301.190, and 301.444, and the enactment of sections 67.1813, 301.134, 301.3032, 301.3074, 301.3079, 301.3098, 301.3106, 301.3122, 301.3124, 301.3125, 301.3126, 301.3128, 301.3130, 301.3131, 301.3132, 301.3133, 301.3137, 301.3139, 301.3142, 301.3143, 301.3144, 301.3146, 301.3147, 301.3150, 301.3152, 301.3154, 301.3155, 301.3999, 304.155, 304.156, 304.157, and 304.601 of section A of this act shall become effective January 1, 2005.

SECTION D. EFFECTIVE DATE. — The repeal and reenactment of sections 365.020, 365.080, and 365.100 of section A of this act shall become effective August 28, 2005.

SECTION E. EFFECTIVE DATE. — The repeal and reenactment of sections 302.225, 302.272, 302.302, 302.309, 302.700, 302.725, 302.740, 302.755, 302.756, 302.760, and 577.054, and the enactment of sections 302.273, 302.345, 302.347, and 302.727 of section A of this act shall become effective September 30, 2005.

SECTION F. EFFECTIVE DATE. — The repeal and reenactment of sections 301.280 and 577.080 of section A of this act shall become effective January 1, 2006.

SECTION G. EFFECTIVE DATE. — The repeal and reenactment of section 301.130, and the enactment of sections 407.1200, 407.1203, 407.1206, 407.1209, 407.1212, 407.1215, 407.1218, 407.1221, 407.1224, 407.1225, and 407.1227 of section A of this act shall become effective January 1, 2007.

Approved July 9, 2004

SB 1235 [SCS SB 1235]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to liquidation of insurance companies.

AN ACT to repeal sections 375.246, 375.1198, and 375.1220, RSMo, and to enact in lieu thereof three new sections relating to insurer liquidation law.

SECTION

- A. Enacting clause.
375.246. Reinsurance, when allowed as an asset or reduction from liability.
375.1198. Mutual credits or debts, setoffs allowed — exceptions.
375.1220. Claim disputes — duty of liquidator — estimates allowed, when — commutation and release.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 375.246, 375.1198, and 375.1220, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 375.246, 375.1198, and 375.1220, to read as follows:

375.246. REINSURANCE, WHEN ALLOWED AS AN ASSET OR REDUCTION FROM LIABILITY. — 1. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivisions (1) to (5) of this subsection. Credit shall be allowed pursuant to subdivision (1), (2) or (3) of this subsection only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed pursuant to subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision (6) have been satisfied.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance in this state;

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state. An accredited reinsurer is one that:

(a) Files with the director evidence of its submission to this state's jurisdiction;

(b) Submits to the authority of the department of insurance to examine its books and records;

(c) Is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the director a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(e) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars and whose accreditation has not been denied by the director within ninety days of its submission; or

(f) Maintains a surplus as regards policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the director. No credit shall be allowed a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the director after notice and hearing;

(3) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars; except that this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system; and

(b) Submits to the authority of the department of insurance to examine its books and records;

(4) (a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section, for the payment of the valid claims of its United States ceding insurers, their assigns and successors in interest. To enable the director to determine the sufficiency of the trust fund, the assuming insurer shall report annually to the director information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by licensed insurers. The assuming insurer shall submit to examination of its books and records by the director.

(b) Credit for reinsurance shall not be granted pursuant to this subdivision unless the form of the trust and any amendments to the trust have been approved by:

a. The commissioner or director of the state agency regulating insurance in the state where the trust is domiciled; or

b. The commissioner or director of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(c) The form of the trust and any trust amendments shall also be filed with the commissioner or director in every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the director.

(d) The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. No later than February twenty-eighth of each year the trustees of the trust shall report to the director in writing the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the next following December thirty-first.

(e) The following requirements apply to the following categories of assuming insurers:

a. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by the United States ceding insurers, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars;

b. In the case of a group of incorporated and individual unincorporated underwriters:

(i) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after August 1, 1995, the trust shall consist of a trustee account in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group;

(ii) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of this section, the trust shall consist of a trustee account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business in the United States; and

(iii) In addition to these trusts, the group shall maintain in trust a trustee surplus of which one hundred million dollars shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account;

c. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members;

d. Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group;

(5) Credit:

(a) Shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this subsection, but only as to the insurance of risks located in a jurisdiction of the United States where the reinsurance is required by applicable law or regulation of that jurisdiction;

(b) May be allowed in the discretion of the director when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3) or (4) of this

subsection, but only as to the insurance of risks located in a foreign country where the reinsurance is required by applicable law or regulation of that country;

(6) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer shall submit to the jurisdiction of the courts of this state, will comply with all requirements necessary to give such courts jurisdiction, and will abide by the final decisions of such courts or of any appellate courts in this state in the event of an appeal; and

(b) To designate the director or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement and the jurisdiction and situs of the arbitration is, with respect to any receivership of the ceding company, any jurisdiction of the United States;

(7) If the assuming insurer does not meet the requirements of subdivision (1), (2) or (3) of this subsection, the credit permitted by subdivision (4) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by paragraph (e) of subdivision (4) of this subsection, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner or director with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner or director with regulatory oversight all of the assets of the trust fund;

(b) The assets shall be distributed by and claims shall be filed with and valued by the commissioner or director with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies;

(c) If the commissioner or director with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner or director with regulatory oversight to the trustee for distribution in accordance with the trust agreement; and

(d) The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this subsection.

2. An asset or reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of subsection 1 of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in subdivision (2) of subsection 3 of this section. This security may be in the form of:

(1) Cash;

(2) Securities listed by the securities valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets;

(3) (a) Clean, irrevocable, unconditional letters of credit, as defined in subdivision (1) of subsection 3 of this section, issued or confirmed by a qualified United States financial institution

no later than December thirty-first of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of its annual statement.

(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, shall continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs;

(4) Any other form of security acceptable to the director.

3. (1) For purposes of subdivision (3) of subsection 2 of this section, a "qualified United States financial institution" means an institution that:

(a) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the director, or the securities valuation office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director.

(2) A "qualified United States financial institution" means, for purposes of those provisions of this law specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

4. The director may adopt rules and regulations implementing the provisions of this section.

5. (1) The director shall disallow any credit as an asset or as a deduction from liability for any reinsurance found by him to have been arranged for the purpose principally of deception as to the ceding company's financial condition as of the date of any financial statement of the company. Without limiting the general purport of this provision, reinsurance of any substantial part of the company's outstanding risks contracted for in fact within four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the assuming insurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception within the intent of this provision.

(2) (a) The director shall also disallow as an asset or deduction from liability to any ceding insurer any credit for reinsurance unless the reinsurance is payable to the ceding company, and if it be [impaired or] insolvent to its receiver, by the assuming insurer on the basis of the liability of the ceding company under the contracts reinsured without diminution because of the insolvency of the ceding company.

(b) Such payments shall be made directly to the ceding insurer or to its domiciliary liquidator except:

a. Where the contract of insurance or reinsurance specifically provides for payment to the named insured, assignee or named beneficiary of the policy issued by the ceding insurer in the event of the insolvency of the ceding insurer; or

b. Where the assuming insurer, with the consent of it and the direct insured or insureds in an assumption reinsurance transaction subject to sections 375.1280 to 375.1295, has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees.

(c) Notwithstanding paragraphs (a) and (b) of this subdivision, in the event that a life and health insurance guaranty association has made the election to succeed to the rights and obligations of the insolvent insurer under the contract of reinsurance, then the reinsurer's liability to pay covered reinsured claims shall continue under the contract of reinsurance, subject to the payment to the reinsurer of the reinsurance premiums for such coverage. Payment for such reinsured claims shall only be made by the reinsurer pursuant to the direction of the guaranty association or its designated successor. Any payment made at the direction of the guaranty association or its designated successor by the reinsurer will discharge the reinsurer of all further liability to any other party for such claim payment.

(d) The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against such ceding insurer on the contract reinsured within a reasonable time after such claim is filed in the liquidation proceeding. During the pendency of such claim, any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated any defenses which it deems available to the ceding insurer, or its liquidator. Such expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

6. To the extent that any reinsurer of an insurance company in liquidation would have been required under any agreement pertaining to reinsurance to post letters of credit or other security prior to an order of liquidation to cover such reserves reflected upon the last financial statement filed with a regulatory authority immediately prior to receivership, such reinsurer shall be required to post letters of credit or other security to cover reserves after a company has been placed in liquidation or receivership. If a reinsurer shall fail to post letters of credit or other security as required by a reinsurance agreement or the provisions of this subsection, the director may consider disallowing as a credit or asset, in whole or in part, any future reinsurance ceded to such reinsurer by a ceding insurance company that is incorporated under the laws of the state of Missouri.

7. The provisions of section 375.420 shall not apply to any action, suit or proceeding by a ceding insurer against an assuming insurer arising out of a contract of reinsurance effectuated in accordance with the laws of Missouri.

8. The provisions of this section shall become effective on January 1, 2003, and shall be applicable to the financial statements of a reinsurer as of December 31, 2002.

375.1198. MUTUAL CREDITS OR DEBTS, SETOFFS ALLOWED — EXCEPTIONS. — 1. Mutual debts or mutual credits, whether arising out of one or more contracts, between the insurer and another person in connection with any action or proceeding under sections 375.1150 to 375.1246, sections 374.216 and 374.217, RSMo, and section 382.302, RSMo, shall be set off and the balance only shall be allowed or paid, except as provided in subsections 2, 3, 4, 5 and 6 of this section and section 375.1204.

2. No setoff shall be allowed in favor of any person where:

(1) The obligation of the insurer to the person would not as of the date of the filing of a petition for liquidation entitle the person to share as a claimant in the assets of the insurer; or

(2) The obligation of the insurer to the person was purchased by or transferred to the person with a view to its being used as a setoff; or

(3) The obligation of the person is to pay an assessment levied against the members or subscribers of the insurer, or is to pay a balance upon a subscription to the capital stock of the insurer, or is in any other way in the nature of a capital contribution; or

(4) The obligation of the insurer is owed to an affiliate of such person or to any entity or association, rather than the person; or

(5) The obligation of the person is owed to an affiliate of the insurer or to any other entity or association, rather than the insurer; or

(6) The obligations between the person and the insurer arise from reinsurance relationships resulting in business [which is both ceded to and assumed from the insurer] **where either the person or the insurer has assumed risks and obligations from the other party and then has ceded back to that party substantially the same risks and obligations.**

3. [As soon as practicable, the receiver shall provide persons who assumed business from the insurer as reinsurers with statements of account identifying debts which are currently due and payable to the insurer. Such persons may set off against such debts only mutual credits which are currently due and payable by the insurer to such persons for the period covered by the accounting statements.

4. A person who ceded business to the insurer may set off debts due the insurer against only those mutual credits which the person has paid or which have been allowed in a delinquency proceeding.

5. Notwithstanding the foregoing, a setoff of sums due on obligations in the nature of those prescribed in subdivision (6) of subsection 2 of this section shall be allowed for those debts accruing from business written under reinsurance contracts which were entered into, renewed or extended with the express written approval of the director where Missouri is the state of domicile of the insolvent insurer and when in the judgment of the director such action is deemed necessary or advisable in order to prevent or mitigate a threatened impairment or insolvency of a domiciliary insurer, in connection with supervision or conservation proceedings pursuant to this act or otherwise in connection with the exercise of the director's regulatory responsibilities concerning a threatened impairment or insolvency without the institution of any delinquency proceedings.

6.] The provisions of this section shall apply to all obligations incurred under contracts entered into, renewed, or extended on or after July 1, 1992, and to any existing contract with a termination date longer than one year from January 1, 1993[, and shall supersede any contractual provisions which might be construed to enlarge the setoff rights of any person under any contract with the insurer; provided that the provisions of subdivision (6) of subsection 2 and subsections 3, 4 and 5 of this section shall not apply to insurers or reinsurers until such time that the director determines that substantially similar provisions are effective in a sufficient number of states so as not to place domestic insurers or reinsurers at a competitive disadvantage. The director shall promulgate a rule announcing any determination as is necessitated by this subsection].

375.1220. CLAIM DISPUTES — DUTY OF LIQUIDATOR — ESTIMATES ALLOWED, WHEN — COMMUTATION AND RELEASE. — 1. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as the liquidator shall deem necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be allowed, under the supervision of the court, except where the liquidator is required by law to accept claims as settled by any person or organization. Unresolved disputes shall be determined pursuant to section 375.1214. No claim under a policy of insurance shall be allowed for any amount in excess of the applicable policy limits or without regard to policy deductibles.

2. If the fixing or liquidation of any claim or claims would unduly delay the administration of the liquidation or if the administrative expense of processing and adjudication of a claim or group of claims of a similar type would be unduly excessive when compared with the moneys which are estimated to be available for distribution with respect to such claim or group of claims, the determination and allowance of such claim or claims may be made by an estimate. Any such estimate shall be based upon an actuarial evaluation made with reasonable actuarial certainty or upon another accepted method of valuing claims with reasonable certainty.

3. The estimation of contingent liabilities permitted by subsection 2 of this section or any other section of this chapter may be used for the purpose of fixing a creditor's claim in the estate, and for determining the percentage of partial or final dividend payments to be paid to creditors with reported allowed claims. However, nothing in subsection 2 of this section or any other section in this chapter shall be construed as authorizing the receiver, or any other entity, to compel payment from a reinsurer on the basis of estimated incurred but not reported losses and, except with respect to claims made pursuant to section 375.1212, outstanding reserves. Nothing in this subsection shall be construed to impair any obligation arising pursuant to any insurance agreement. **Expert testimony concerning estimates of incurred but not reported losses may be received in evidence in any tribunal whether offered by the receiver or by the reinsurer, if such testimony is otherwise admissible pursuant to section 490.065, RSMo.**

4. Notwithstanding the provisions of this section or any other section of this chapter to the contrary, the liquidator may negotiate a voluntary commutation and release of all obligations arising from reinsurance contracts or other agreements.

5. The provisions of subsection 3 of this section shall not apply to and have no force and effect regarding any formal delinquency proceeding in which, prior to August 28, 1999, the court in which such proceeding was or is pending issued any order or decree construing or applying the provisions of this section.

[6. Subsections 3 and 5 of this section shall terminate on December 31, 2005.]

Approved July 2, 2004

SB 1242 [HCS SB 1242]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to the Kansas City Public School Retirement System.

AN ACT to repeal sections 169.270, 169.291, 169.295, 169.311, 169.313, 169.322, 169.324, and 169.328, RSMo, and to enact in lieu thereof seven new sections relating to school employee retirement.

SECTION

- A. Enacting clause.
- 169.270. Definitions.
- 169.291. Board of trustees, qualifications, terms — superintendent of school district to be member — vacancies — lapse of corporate organization, effect of — oaths — officers — expenses — powers and duties — medical board, appointment — contribution rates of employers, amount.
- 169.295. Board of trustees, powers and duties.
- 169.311. One year creditable service, how computed.
- 169.322. Retirement for disability — periodic examination — subsequent reemployment and retirement.
- 169.324. Retirement allowances, minimum amounts — retirants may substitute without affecting allowance, limitation — annual determination of ability to provide benefits, standards — action plan for use of minority and women money managers, brokers and investment counselors.
- 169.328. Accumulated contributions returned to member, when.
- 169.313. Prior service granted to reemployed members.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 169.270, 169.291, 169.295, 169.311, 169.313, 169.322, 169.324, and 169.328, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 169.270, 169.291, 169.295, 169.311, 169.322, 169.324, and 169.328, RSMo, to read as follows:

169.270. DEFINITIONS. — Unless a different meaning is clearly required by the context, the following words and phrases as used in sections 169.270 to 169.400 shall have the following meanings:

(1) "Accumulated contributions", the sum of all amounts deducted from the compensation of a member or paid on behalf of the member by the employer and credited to the member's individual account together with interest thereon in the employees' contribution fund. The board of trustees shall determine the rate of interest allowed thereon as provided for in section 169.295;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of formulas and/or tables which have been approved by the board of trustees;

(3) "Average final compensation", the highest average annual compensation received for any four consecutive years of service. In determining whether years of service are "consecutive", only periods for which creditable service is earned shall be considered, and all other periods shall be disregarded;

(4) "Beneficiary", any person designated by a member for a retirement allowance or other benefit as provided by sections 169.270 to 169.400;

(5) "Board of education", the board of directors or corresponding board, by whatever name, having charge of the public schools of the school district in which the retirement system is established;

(6) "Board of trustees", the board provided for in section 169.291 to administer the retirement system;

(7) "Break in service", an occurrence when a regular employee ceases to be a regular employee for any reason **other than retirement** (including termination of employment, resignation, [retirement] or furlough but not including vacation, sick leave, excused absence or leave of absence granted by an employer) and such person does not again become a regular employee until after **sixty consecutive calendar days have elapsed, or after** fifteen consecutive school or work days have elapsed, **whichever occurs later. A break in service also occurs when a regular employee retires under the retirement system established by section 169.280 and does not again become a regular employee until after fifteen consecutive school or work days have elapsed.** A "school or work day" is a day on which the employee's employer requires (or if the position no longer exists, would require, based on past practice) employees having the former employee's last job description to report to their place of employment for any reason;

(8) "Charter school", any charter school established pursuant to sections 160.400 to 160.420, RSMo, and located, at the time it is established, within the school district;

(9) "Compensation", the regular compensation as shown on the salary and wage schedules of the employer [plus], **including** any amounts paid by the employer on a member's behalf pursuant to subdivision (5) of subsection 1 of section 169.350, but such term is not to include extra pay, overtime pay, consideration for entering into early retirement, or any other payments not included on salary and wage schedules. For any year beginning after December 31, 1988, the annual compensation of each member taken into account under the retirement system shall not exceed the limitation set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended;

(10) "Creditable service", the amount of time that a regular employee is a member of the retirement system and makes contributions thereto in accordance with the provisions of sections 169.270 to 169.400;

(11) "Employee", any person who is classified by the school district, a charter school, the library district or the retirement system established by section 169.280 as an employee of such employer and is reported contemporaneously for federal and state tax purposes as an employee of such employer. A person is not considered to be an employee for purposes of such retirement system with respect to any service for which the person was not reported contemporaneously for federal and state tax purposes as an employee of such employer, regardless of whether the person is or may later be determined to be or to have been a common law employee of such employer,

including but not limited to a person classified by the employer as independent contractors and persons employed by other entities which contract to provide staff and services to the employer. In no event shall a person reported for federal tax purposes as an employee of a private, for-profit entity be deemed to be an employee eligible to participate in the retirement system established by section 169.280 with respect to such employment;

(12) "Employer", the school district, any charter school, the library district, or the retirement system established by section 169.280, or any combination thereof, as required by the context to identify the employer of any member, or, for purposes only of subsection 2 of section 169.324, of any retirant;

(13) "Employer's board", the board of education, the governing board of any charter school, the board of trustees of the library district, the board of trustees, or any combination thereof, as required by the context to identify the governing body of an employer;

(14) "Library district", any urban public library district created from or within a school district under the provisions of section 182.703, RSMo;

(15) "Medical board", the board of physicians provided for in section 169.291;

(16) "Member", any person who is a regular employee after the retirement system has been established hereunder ("active member"), and any person who (i) was an active member, (ii) has vested retirement benefits hereunder, and (iii) is not receiving a retirement allowance hereunder ("inactive member");

(17) "Minimum normal retirement age", the earlier of the **date the member [attaining] attains** the age of sixty or **the date the member** has a total of at least seventy-five credits, with each year of creditable service[, and prorated for fractional years, equal to one credit] and each year of age[, and] **equal to one credit, with both years of creditable service and years of age** prorated for fractional years[, equal to one credit];

(18) "Prior service", service prior to the date the system becomes operative which is creditable in accordance with the provisions of section 169.311. Prior service in excess of thirty-eight years shall be considered thirty-eight years;

(19) "Regular employee", any employee who is assigned to an established position which requires service of not less than [five] **twenty-five** hours [per day, five days] per week, and not less than nine calendar months a year. Any regular employee who is subsequently assigned without break in service to a position demanding less service than is required of a regular employee shall continue the employee's status as a regular employee. [However,] **Except as stated in the preceding sentence**, a temporary, part-time, or furloughed employee is not a regular employee;

(20) "Retirant", a former member receiving a retirement allowance hereunder;

(21) "Retirement allowance", annuity payments to a retirant or to such beneficiary as is entitled to same;

(22) "School district", any school district in which a retirement system shall be established under section 169.280.

169.291. BOARD OF TRUSTEES, QUALIFICATIONS, TERMS — SUPERINTENDENT OF SCHOOL DISTRICT TO BE MEMBER — VACANCIES — LAPSE OF CORPORATE ORGANIZATION, EFFECT OF — OATHS — OFFICERS — EXPENSES — POWERS AND DUTIES — MEDICAL BOARD, APPOINTMENT — CONTRIBUTION RATES OF EMPLOYERS, AMOUNT. — 1. The general administration and the responsibility for the proper operation of the retirement system are hereby vested in a board of trustees of twelve persons who shall be resident taxpayers of the school district, as follows:

(1) Four trustees to be appointed for terms of four years by the board of education; provided, however, that the terms of office of the first four trustees so appointed shall begin immediately upon their appointment and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(2) Four trustees to be elected for terms of four years by and from the members of the retirement system; provided, however, that the terms of office of the first four trustees so elected shall begin immediately upon their election and shall expire one, two, three and four years from the date the retirement system becomes operative, respectively;

(3) The ninth trustee shall be the superintendent of schools of the school district;

(4) The tenth trustee shall be one retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 13, 1986, by the retirants of the retirement system;

(5) The eleventh trustee shall be appointed for a term of four years beginning the first day of January immediately following August 13, 1990, by the board of trustees described in subdivision (3) of section 182.701, RSMo;

(6) The twelfth trustee shall be a retirant of the retirement system elected for a term of four years beginning the first day of January immediately following August 28, 1992, by the retirants of the retirement system.

2. If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled, except that the board of trustees may appoint a qualified person to fill the vacancy in the office of an elected member until the next regular election at which time a member shall be elected for the unexpired term. No vacancy or vacancies on the board of trustees shall impair the power of the remaining trustees to administer the retirement system pending the filling of such vacancy or vacancies.

3. In the event of a lapse of the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, the general administration and responsibility for the proper operation of the retirement system shall continue to be vested in a twelve-person board of trustees, all of whom shall be resident taxpayers of a city, other than a city not within a county, of four hundred thousand or more. In such event, if vacancies occur in the offices of the four trustees appointed, prior to the lapse, by the board of education, or in the offices of the four trustees elected, prior to the lapse, by the members of the retirement system, or in the office of trustee held, prior to the lapse, by the superintendent of schools in the school district, as provided in subdivisions (1), (2) and (3) of subsection 1 of this section, the board of trustees shall appoint a qualified person to fill each vacancy and subsequent vacancies in the office of trustee for terms of up to four years, as determined by the board of trustees.

4. Each trustee shall, before assuming the duties of a trustee, take the oath of office before the court of the judicial circuit or one of the courts of the judicial circuit in which the school district is located that so far as it devolves upon the trustee, such trustee shall diligently and honestly administer the affairs of the board of trustees and that the trustee will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the trustee making it and filed in the office of the clerk of the circuit court.

5. Each trustee shall be entitled to one vote in the board of trustees. Seven trustees shall constitute a quorum at any meeting of the board of trustees. At any meeting of the board of trustees where a quorum is present, the vote of at least seven of the trustees in support of a motion, resolution or other matter is necessary to be the decision of the board; provided, however, that in the event of a lapse in the school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, a majority of the trustees then in office shall constitute a quorum at any meeting of the board of trustees, and the vote of a majority of the trustees then in office in support of a motion, resolution or other matter shall be necessary to be the decision of the board.

6. The board of trustees shall have exclusive original jurisdiction in all matters relating to or affecting the funds herein provided for, including, in addition to all other matters, all claims for benefits or refunds, and its action, decision or determination in any matter shall be reviewable in accordance with chapter 536, RSMo, or chapter 621, RSMo. Subject to the limitations of sections 169.270 to 169.400, the board of trustees shall, from time to time, establish rules and

regulations for the administration of funds of the retirement system, for the transaction of its business, and for the limitation of the time within which claims may be filed.

7. The trustees shall serve without compensation. The board of trustees shall elect from its membership a chairman and a vice chairman. The board of trustees shall appoint an executive director who shall serve as the administrative officer of the retirement system and as secretary to the board of trustees. It shall employ one or more persons, firms or corporations experienced in the investment of moneys to serve as investment counsel to the board of trustees. The compensation of all persons engaged by the board of trustees and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board of trustees shall approve, and shall be paid from the investment income.

8. The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuations of the various funds of the retirement system and for checking the experience of the system.

9. The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall prepare annually and furnish to the board of education and to each member of the retirement system who so requests a report showing the fiscal transactions of the retirement system for the preceding fiscal year, the amount of accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the retirement system.

10. The board of trustees shall have, in its own name, power to sue and to be sued, to enter into contracts, to own property, real and personal, and to convey the same; but the members of such board of trustees shall not be personally liable for obligations or liabilities of the board of trustees or of the retirement system.

11. The board of trustees shall arrange for necessary legal advice for the operation of the retirement system.

12. The board of trustees shall designate a medical board to be composed of three **or more** physicians who shall not be eligible for membership in the system and who shall pass upon all medical examinations required under the provisions of sections 169.270 to 169.400, shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations upon all matters referred to it.

13. The board of trustees shall designate an actuary who shall be the technical advisor of the board of trustees on matters regarding the operation of the retirement system and shall perform such other duties as are required in connection therewith. Such person shall be qualified as an actuary by membership as a Fellow of the Society of Actuaries or by similar objective standards.

14. At least once in each five-year period the actuary shall make an investigation into the actuarial experience of the members, retirants and beneficiaries of the retirement system and, taking into account the results of such investigation, the board of trustees shall adopt for the retirement system such actuarial assumptions as the board of trustees deems necessary for the financial soundness of the retirement system.

15. On the basis of such actuarial assumptions as the board of trustees adopts, the actuary shall make annual valuations of the assets and liabilities of the funds of the retirement system.

16. The rate of contribution payable by the employer shall equal one and ninety-nine one-hundredths percent, effective July 1, 1993; three and ninety-nine one-hundredths percent, effective July 1, 1995; five and ninety-nine one-hundredths percent, effective July 1, 1996; seven and one-half percent effective January 1, 1999, and for all subsequent years.

17. In the event of a lapse of a school district's corporate organization as described in subsections 1 and 4 of section 162.081, RSMo, no retirement system, nor any of the assets of any retirement system, shall be transferred to or merged with another retirement system without prior approval of such transfer or merge by the board of trustees of the retirement system.

169.295. BOARD OF TRUSTEES, POWERS AND DUTIES. — 1. The board of trustees shall be the trustees of all the funds of the system and shall have full power to invest and reinvest such funds. The trustees shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities and investments in which the funds shall have been invested, and the proceeds thereof.

2. The board of trustees shall allow interest annually on the balance in each member's account at the beginning of the year at the rate approved by the board. The board shall adjust the balance of the general reserve fund for investment realized and unrealized gains, losses, income and expenses, not so allowed as interest on members' accounts.

3. The board of trustees shall elect a treasurer who shall serve at the board's pleasure. The treasurer shall be the custodian of the funds provided for in section 169.350 and shall give such bond for the faithful handling of the funds as the board of trustees shall determine. The board of trustees may employ [a bank] **one or more banks** having fiduciary powers for the provisions of such custodial or clerical service as the board may deem appropriate to assist the treasurer. Disbursement of funds of the retirement system shall be under the supervision of the treasurer and shall be in accordance with procedures established or approved by the board of trustees with the concurrence of the system's auditors.

4. For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total amount in the funds of the retirement system, on deposit in one or more banks or trust companies in the school district, organized under the laws of the state of Missouri, or of the United States; provided, that the amount on deposit in any one bank or trust company shall not exceed twenty-five percent of the paid-up capital and surplus of such bank or trust company, and for all deposits in excess of ten thousand dollars the board of trustees shall require of the banks or trust companies as security for the safekeeping and payment of the deposits securities of a like kind and character as may be required by law for the safekeeping and payment of deposits made by the state treasurer.

5. Except as herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investment made by the board of trustees. No trustee or employee of the board of trustees shall directly or indirectly for such person or as an agent in any manner use the assets of the retirement system except to make such current and necessary payments as are authorized by the board of trustees, nor shall any trustee or employee of the board of trustees become in any manner an obligor for moneys loaned by or borrowed from the board of trustees.

6. In the event that any employer offers to its employees an early retirement option, or any other form of group exit incentive program, the board of trustees is hereby authorized to permit such employer or any active member who participates in such group exit incentive program to purchase additional creditable service, in increments of not less than one month, and shall fix and determine by proper rules and regulations, which may be amended from time to time, the amount of service that may be purchased and the cost thereof. Under no circumstance, however, shall:

- (1) The amount of such purchased creditable service exceed twenty-four months;
- (2) The cost of purchasing such creditable service be less than the amount necessary to pay the full actuarial cost to the retirement system of the additional purchased service;
- (3) The purchasing employer or active member be permitted to elect to purchase such creditable service after the expiration of a reasonable time period, which time period shall be specified in the above-referenced rules and regulations;
- (4) Such purchased creditable service count toward the vesting requirements of section 169.301; or
- (5) This subsection be applied in any manner that would not be in compliance with applicable provisions of the Internal Revenue Code.

169.311. ONE YEAR CREDITABLE SERVICE, HOW COMPUTED. — [1.] The board of trustees shall fix and determine by proper rules and regulations how much service in any year

is equivalent to one year of creditable service, but in no case shall more than one year of service be creditable for all service in one calendar year, nor shall the board of trustees allow credit as service for any period of more than one pay period's duration, as shown on the salary and wage schedules of the employer, during all of which the member was absent without pay unless such member pays the employee contributions, including contributions by the employer in lieu of employee contributions, for such period as permitted by the board of trustees in accordance with the provisions of section 169.315.

[2. Under the rules and regulations that the board of trustees adopts, each member who was an employee on and prior to the date the retirement system becomes operative and who becomes a member within one year of such date shall file a detailed statement of all service as an employee for which such person claims credit rendered by such person prior to that date.

3. Subject to the above restrictions and to the other rules and regulations that the board of trustees adopts, the board of trustees shall verify the service claims as soon as practicable, after the filing of the statements of service.

4. Upon verification of the statements of service, the board of trustees shall issue prior service certificates, certifying to each member the length of prior service with which the member is credited on the basis of the member's statement of service. So long as the holder of a certificate continues to be a member, a prior service certificate shall be final and conclusive for retirement purposes as to such service; provided, however, that any member may, within one year from the date of issuance or modification of the certificate, request the board of trustees to modify or correct the person's prior service certificate. When any employee ceases to be a member, the person's prior service certificate becomes void, and if the person again becomes a member the person shall enter the retirement system as a member not entitled to prior service credit, except as provided in section 169.313.]

169.322. RETIREMENT FOR DISABILITY — PERIODIC EXAMINATION — SUBSEQUENT REEMPLOYMENT AND RETIREMENT. — 1. Upon the written application of an active member or of the person's employer's board, any active member who has five or more years of creditable service shall be retired by the board of trustees on a disability retirement allowance, if the medical board after a medical examination of such member, **or based on such other medical information as the medical board may require**, shall certify that such member is mentally or physically unable to perform such member's employment duties and that such incapacity is likely to be permanent. Application for a disability retirement allowance may be made after the member ceases to be an active member; provided that, the disability commenced while the member was an active member, and further provided that application is made no later than six months after the disabled member ceases to be an employee of his or her employer. The first monthly payment of such disability retirement allowance shall not be made to such member so long as the member receives compensation from the member's employer.

2. Upon retirement for disability, a member shall receive a disability retirement allowance which shall be determined in the same manner as the service retirement allowance as set forth in section 169.324, but not less than the minimum disability retirement allowance provided in this section. The minimum disability retirement allowance shall be the lesser of:

(1) Twenty-five percent of the person's average final compensation; or

(2) The member's service retirement allowance calculated based on the member's final average compensation and the maximum number of years of creditable service the member would have earned had the member remained an employee until attaining the age of sixty.

3. Once each year during the first five years following a member's retirement on a disability retirement allowance and once in every three-year period thereafter, the board of trustees may require any disability retiree who has not yet attained minimum normal retirement age to undergo a medical examination at a place designated by the medical board, such examination to be made by the medical board or by a physician or physicians designated by such board. Should any such disability retiree refuse to submit to such medical examination, the person's

disability allowance may be discontinued until the person's withdrawal of such refusal, and should the person's refusal continue for one year all rights in and to the person's disability allowance shall be revoked by the board of trustees.

4. Should the board of trustees determine that any disability retirant who has not yet attained minimum normal retirement age is engaged in or is able to engage in a gainful occupation paying more than the difference between the person's monthly disability retirement allowance plus any Social Security benefits to which the person is eligible and the current rate of monthly compensation for the position the person held at retirement, then the amount of the person's disability retirement allowance shall be reduced to an amount which together with Social Security benefits and the amount earnable by the person shall equal such current rate of monthly compensation. Should the person's earning capacity be later changed, the amount of the person's disability retirement allowance may be further modified. The board of trustees may engage those persons, firms or corporations which it deems necessary to assist the board of trustees in making any determination under this subsection.

5. Should any member retired for disability be restored to active service as a regular employee, the member's disability retirement allowance shall cease and the member shall again become a member of the retirement system, and contribute thereunder. Anything in sections 169.270 to 169.400 to the contrary notwithstanding, a disability retirant who has not attained the minimum normal retirement age at the date of again becoming a member shall have the person's creditable service at the time of the person's disability retirement restored, and the excess of the person's accumulated contributions at time of retirement over the total payments which the person received during retirement shall be credited to the person's account. Upon subsequent retirement, the person shall be entitled to a service retirement allowance to the extent the person meets the requisite qualifications, and the person's prior disability retirement allowance shall not be resumed. If a disability retirant has attained the minimum normal retirement age at the date of again becoming a member, the disability retirement allowance the person was receiving immediately prior to restoration of membership shall be resumed on subsequent retirement, together with such retirement allowances as shall accrue by reason of the person's latest period of membership. For the sole purpose of determining the person's eligibility for such additional retirement allowance, but not for determining the amount, all of the person's years of creditable service, whether before or after the person's period of disability, for which the person has made contributions which have not been withdrawn, shall be considered.

169.324. RETIREMENT ALLOWANCES, MINIMUM AMOUNTS — RETIRANTS MAY SUBSTITUTE WITHOUT AFFECTING ALLOWANCE, LIMITATION — ANNUAL DETERMINATION OF ABILITY TO PROVIDE BENEFITS, STANDARDS — ACTION PLAN FOR USE OF MINORITY AND WOMEN MONEY MANAGERS, BROKERS AND INVESTMENT COUNSELORS. — 1. The annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by one and three-fourths percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. For any member who retires as an active member on or after June 30, 1999, the annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life shall be the retirant's number of years of creditable service multiplied by two percent of the person's average final compensation, subject to a maximum of sixty percent of the person's average final compensation. Any member whose number of years of creditable service is greater than thirty-four and one-quarter on August 28, 1993, shall receive an annual service retirement allowance payable pursuant to section 169.320 in equal monthly installments for life equal to the retirant's number of years of creditable service as of August 28, 1993, multiplied by one and three-fourths percent of the person's average final compensation but shall not receive a greater annual service retirement allowance based on additional years of creditable service after August 28, 1993. Provided, however, that, effective January 1, 1996, any retiree who retired on, before or after January 1, 1996, with at least twenty

years of creditable service shall receive at least three hundred dollars each month as a retirement allowance, or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326. Provided, further, any retiree who retired with at least ten years of creditable service shall receive at least one hundred fifty dollars each month as a retirement allowance, plus fifteen dollars for each additional full year of creditable service greater than ten years but less than twenty years (or the actuarial equivalent thereof if the retiree elected any of the options available under section 169.326). Any beneficiary of a deceased retiree who retired with at least ten years of creditable service and elected one of the options available under section 169.326 shall also be entitled to the actuarial equivalent of the minimum benefit provided by this subsection, determined from the option chosen.

2. Except as otherwise provided in sections **169.331**, 169.580 and 169.585, payment of a retirant's retirement allowance will be suspended for any month for which such person receives remuneration from the person's employer or from any other employer in the retirement system established by section 169.280 for the performance of services except **any** such person **other than a person receiving a disability retirement allowance under section 169.322** may serve as a nonregular substitute, part-time or temporary employee for not more than six hundred hours in any school year without becoming a member and without having the person's retirement allowance discontinued. If a retirant is reemployed by any employer in any capacity, whether pursuant to this section, [section] **or section 169.331**, 169.580, or [section] 169.585, or as a regular employee, the amount of such person's retirement allowance attributable to service prior to the person's first retirement date shall not be changed by the reemployment. If the person again becomes an active member and earns additional creditable service, upon the person's second retirement the person's retirement allowance shall be the sum of:

(1) The retirement allowance the person was receiving at the time the person's retirement allowance was suspended, pursuant to the payment option elected as of the first retirement date, plus the amount of any increase in such retirement allowance the person would have received pursuant to subsection 3 of this section had payments not been suspended during the person's reemployment; and

(2) An additional retirement allowance computed using the benefit formula in effect on the person's second retirement date, the person's creditable service following reemployment, and the person's average annual compensation as of the second retirement date. The sum calculated pursuant to this subsection shall not exceed the greater of sixty percent of the person's average final compensation as of the second retirement date or the amount determined pursuant to subdivision (1) of this subsection. Compensation earned prior to the person's first retirement date shall be considered in determining the person's average final compensation as of the second retirement date if such compensation would otherwise be included in determining the person's average final compensation.

3. The board of trustees shall determine annually whether the investment return on funds of the system can provide for an increase in benefits for retirants eligible for such increase. A retirant shall and will be eligible for an increase awarded pursuant to this section as of the second January following the date the retirant commenced receiving retirement benefits. Any such increase shall also apply to any monthly joint and survivor retirement allowance payable to such retirant's beneficiaries, regardless of age. The board shall make such determination as follows:

(1) After determination by the actuary of the investment return for the preceding year as of December thirty-first (the "valuation year"), the actuary shall recommend to the board of trustees what portion of the investment return is available to provide such benefits increase, if any, and shall recommend the amount of such benefits increase, if any, to be implemented as of the first day of the thirteenth month following the end of the valuation year, and the first payable on or about the first day of the fourteenth month following the end of the valuation year. The actuary shall make such recommendations so as not to affect the financial soundness of the retirement system, recognizing the following safeguards:

(a) The retirement system's funded ratio as of January first of the year preceding the year of a proposed increase shall be at least one hundred percent after adjusting for the effect of the proposed increase. The funded ratio is the ratio of assets to the pension benefit obligation;

(b) The actuarially required contribution rate, after adjusting for the effect of the proposed increase, may not exceed the statutory contribution rate;

(c) The actuary shall certify to the board of trustees that the proposed increase will not impair the actuarial soundness of the retirement system;

(d) A benefit increase, under this section, once awarded, cannot be reduced in succeeding years;

(2) The board of trustees shall review the actuary's recommendation and report and shall, in their discretion, determine if any increase is prudent and, if so, shall determine the amount of increase to be awarded.

4. This section does not guarantee an annual increase to any retiree.

5. If an inactive member becomes an active member after June 30, 2001, and after a break in service, unless the person earns at least four additional years of creditable service without another break in service, upon retirement the person's retirement allowance shall be calculated separately for each separate period of service ending in a break in service. The retirement allowance shall be the sum of the separate retirement allowances computed for each such period of service using the benefit formula in effect, the person's average final compensation as of the last day of such period of service and the creditable service the person earned during such period of service; provided, however, if the person earns at least four additional years of creditable service without another break in service, all of the person's creditable service prior to and including such service shall be aggregated and, upon retirement, the retirement allowance shall be computed using the benefit formula in effect and the person's average final compensation as of the last day of such period of four or more years and all of the creditable service the person earned prior to and during such period.

6. Notwithstanding anything contained in this section to the contrary, the amount of the annual service retirement allowance payable to any retiree pursuant to the provisions of sections 169.270 to 169.400, including any adjustments made pursuant to subsection 3 of this section, shall at all times comply with the provisions and limitations of Section 415 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, the terms of which are specifically incorporated herein by reference.

7. All retirement systems established by the laws of the state of Missouri shall develop a procurement action plan for utilization of minority and women money managers, brokers and investment counselors. Such retirement systems shall report their progress annually to the joint committee on public employee retirement and the governor's minority advocacy commission.

169.328. ACCUMULATED CONTRIBUTIONS RETURNED TO MEMBER, WHEN. — 1. Should a member cease to be a regular employee, except by retirement, the member, if living, shall be paid on demand, made by written notice to the board of trustees, the amount of the person's accumulated contributions (with interest as determined by the board of trustees as provided in sections 169.270 to 169.400) standing to the credit of the person's individual account in the employees' contribution fund. The accumulated contributions with interest shall not be paid to a member so long as the person remains a regular employee **or before the member incurs a break in service.** If the member dies before retirement such accumulated contributions (with interest) shall be paid to the member's estate or designated beneficiary unless the provisions of subsection 3 of section 169.326 apply.

2. If a former unvested member's accumulated contributions have not been withdrawn four years after the person has ceased to be a member (other than by reason of death or retirement), the board of trustees shall pay the same to such former member within a reasonable time after the expiration of such four-year period.

3. If, on account of undeliverability, improper mailing or forwarding address, or other similar problem, the board of trustees is unable to refund the accumulated contributions of a former unvested member or to commence payment of retirement benefits within four years after the end of the calendar year in which such former member ceased to be a regular employee, the board may transfer the accumulated contributions to the general reserve fund. If, thereafter, written application is made to the board of trustees for such refund or benefits, the board shall cause the same to be paid from the general reserve fund, but no interest shall be accrued after the end of the fourth year following the end of the calendar year in which such former member ceased to be a regular employee.

4. In its discretion the board of trustees may approve extensions of any time periods in this section on account of a former member's military or naval service, academic study or illness.

[169.313. PRIOR SERVICE GRANTED TO REEMPLOYED MEMBERS. — The board of trustees may grant prior service credit to an active member who was employed by the school district prior to January 1, 1944, if the member has ceased to be an employee and returns as an employee of the school district after January 1, 1944, and has received credit for at least one year of membership service for each year of prior service claimed. Three-fourths credit may be granted for a year of prior service for completion of each year of required membership service, provided the member has a minimum of five continuous years of membership service after the member's reemployment. The maximum number of years for prior service shall be limited to sixteen years and the maximum amount of prior service credit shall be limited to twelve years; provided, further, that all membership credit must be reinstated before prior service credit, if any, is allowed.]

Approved July 1, 2004

SB 1243 [SB 1243]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires public administrators serving as a conservator to have pooled accounts audited annually.

AN ACT to repeal section 475.275, RSMo, and to enact in lieu thereof one new section relating to verification of securities held by conservator.

SECTION

A. Enacting clause.

475.275. Verification of securities held by conservator — pooled accounts, defined, restrictions on — audit of pooled accounts, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 475.275, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 475.275, to read as follows:

475.275. VERIFICATION OF SECURITIES HELD BY CONSERVATOR — POOLED ACCOUNTS, DEFINED, RESTRICTIONS ON — AUDIT OF POOLED ACCOUNTS, WHEN. — 1. The conservator, at the time of filing any settlement with the court, shall exhibit all securities or investments held by him to an officer of the bank or other depository wherein the securities or investments are held

for safekeeping or to an authorized representative of the corporation which is surety on his bond, or to the judge or clerk of a court of record in this state, or upon request of the conservator or other interested party, to any other reputable person designated by the court, who shall certify in writing that he has examined the securities or investments and identified them with those described in the account and shall note any omission or discrepancies. If the depository is the conservator, the certifying officer shall not be the officer verifying the account. The conservator may exhibit the securities or investments to the judge of the court, who shall endorse on the account and copy thereof, a certificate that the securities or investments shown therein as held by the conservator were each in fact exhibited to him and that those exhibited to him were the same as those in the account and noting any omission or discrepancy. The certificate, and the certificate of an official of the bank in which are deposited any funds for which the conservator is accountable, showing the amount on deposit, shall be prepared and signed in duplicate and one of each shall be filed by the conservator with his account.

2. The public administrator of any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants, serving as a conservator and utilizing pooled accounts for the investment and management of conservatorship funds shall have any such accounts audited no less than one time per year by an independent certified public accountant. The audit provided shall review the records of the receipts and disbursements of each estate account. Upon completion of the investigation, the certified public accountant shall render a report to the judge of record in this state showing the receipts, disbursements, and account balances as to each estate and the total assets on deposit in the pooled account on the last calendar day of each year. The county shall provide for the expense of such audit. Where the public administrator has provided the judge with an audit pursuant to this section, the public administrator shall not be required to obtain the written certification of an officer of a bank or other depository on an estate asset maintained within the pooled account as otherwise required under subsection 1 of this section.

3. Pursuant to this section, a pooled account is an account within the meaning of this section is an account maintained by a fiduciary for more than one principal and is established for the purpose of managing and investing funds. No fiduciary may place funds into a pooled account unless:

- (1) The pooled account is maintained at a bank or savings and loan institution;**
- (2) The account is titled in such a way as to reflect that the account is being held by a fiduciary in a custodial capacity;**
- (3) The fiduciary maintains, or causes to be maintained, records containing information as to the name and ownership interest of each principal in the pooled account;**
- (4) The fiduciary's records contain a statement of all accretions and disbursements;**
- and**
- (5) The fiduciary's records are maintained in the ordinary course of business and in good faith.**

Approved July 2, 2004

SB 1247 [HCS SCS SB 1247]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies various laws relating to the State Legal Expense Fund.

AN ACT to repeal section 105.711, RSMo, and to enact in lieu thereof one new section relating to the state legal expense fund.

SECTION

A. Enacting clause.

105.711. Legal expense fund created — officers, employees, agencies, certain health care providers covered, procedure — rules regarding contract procedures and documentation of care — certain claims, limitations — funds not transferable to general revenue — rules.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 105.711, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.711, to read as follows:

105.711. LEGAL EXPENSE FUND CREATED — OFFICERS, EMPLOYEES, AGENCIES, CERTAIN HEALTH CARE PROVIDERS COVERED, PROCEDURE — RULES REGARDING CONTRACT PROCEDURES AND DOCUMENTATION OF CARE — CERTAIN CLAIMS, LIMITATIONS — FUNDS NOT TRANSFERABLE TO GENERAL REVENUE — RULES. — 1. There is hereby created a "State Legal Expense Fund" which shall consist of moneys appropriated to the fund by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716.

2. Moneys in the state legal expense fund shall be available for the payment of any claim or any amount required by any final judgment rendered by a court of competent jurisdiction against:

(1) The state of Missouri, or any agency of the state, pursuant to section 536.050 or 536.087, RSMo, or section 537.600, RSMo;

(2) Any officer or employee of the state of Missouri or any agency of the state, including, without limitation, elected officials, appointees, members of state boards or commissions, and members of the Missouri national guard upon conduct of such officer or employee arising out of and performed in connection with his or her official duties on behalf of the state, or any agency of the state, provided that moneys in this fund shall not be available for payment of claims made under chapter 287, RSMo; or

(3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse, or other health care provider licensed to practice in Missouri under the provisions of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the state of Missouri or any agency of the state, under formal contract to conduct disability reviews on behalf of the department of elementary and secondary education or provide services to patients or inmates of state correctional facilities on a part-time basis;

(b) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, and his professional corporation organized pursuant to chapter 356, RSMo, who is employed by or under contract with a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, or a city health department operating under a city charter, or a combined city-county health department to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract without compensation or the physician is paid from no other source than a governmental agency except for patient co-payments required by federal or state law or local ordinance;

(c) Any physician licensed to practice medicine in Missouri under the provisions of chapter 334, RSMo, who is employed by or under contract with a federally funded community health center organized under Section 315, 329, 330 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services to patients for medical care caused by pregnancy, delivery, and child care, if such medical services are provided by the physician pursuant to the contract or employment agreement without compensation or the physician is paid from no other source

than a governmental agency or such a federally funded community health center except for patient co-payments required by federal or state law or local ordinance. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of one million dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause against any such physician, and shall not exceed one million dollars for any one claimant;

(d) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered pursuant to chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, dental, or nursing treatment within the scope of his license or registration at a city or county health department organized under chapter 192, RSMo, or chapter 205, RSMo, a city health department operating under a city charter, or a combined city-county health department, or a nonprofit community health center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, if such treatment is restricted to primary care and preventive health services, provided that such treatment shall not include the performance of an abortion, and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(e) Any physician, nurse, physician assistant, dental hygienist, or dentist licensed or registered to practice medicine, nursing, or dentistry or to act as a physician assistant or dental hygienist in Missouri under the provisions of chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, who provides medical, nursing, or dental treatment within the scope of his license or registration to students of a school whether a public, private, or parochial elementary or secondary school, if such physician's treatment is restricted to primary care and preventive health services and if such medical, dental, or nursing services are provided by the physician, dentist, physician assistant, dental hygienist, or nurse without compensation. In the case of any claim or judgment that arises under this paragraph, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars, for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars; or

(4) Staff employed by the juvenile division of any judicial circuit; or

(5) Any attorney licensed to practice law in the state of Missouri who practices law at or through a nonprofit community social services center qualified as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or through any agency of any federal, state, or local government, if such legal practice is provided by the attorney without compensation. In the case of any claim or judgment that arises under this subdivision, the aggregate of payments from the state legal expense fund shall be limited to a maximum of five hundred thousand dollars for all claims arising out of and judgments based upon the same act or acts alleged in a single cause and shall not exceed five hundred thousand dollars for any one claimant, and insurance policies purchased pursuant to the provisions of section 105.721 shall be limited to five hundred thousand dollars.

3. The department of health and senior services shall promulgate rules regarding contract procedures and the documentation of care provided under paragraphs (b), (c), (d), and (e) of subdivision (3) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to the provisions of section 105.721,

provided in subsection [5] 6 of this section, shall not apply to any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721, to the extent damages are allowed under sections 538.205 to 538.235, RSMo. Liability or malpractice insurance obtained and maintained in force by any physician, dentist, physician assistant, dental hygienist, or nurse for coverage concerning his or her private practice and assets shall not be considered available under subsection [5] 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section. However, a physician, nurse, dentist, physician assistant, or dental hygienist may purchase liability or malpractice insurance for coverage of liability claims or judgments based upon care rendered under paragraphs (c), (d), and (e) of subdivision (3) of subsection 2 of this section which exceed the amount of liability coverage provided by the state legal expense fund under those paragraphs. Even if paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is repealed or modified, the state legal expense fund shall be available for damages which occur while the pertinent paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section is in effect.

4. The attorney general shall promulgate rules regarding contract procedures and the documentation of legal practice provided under subdivision (5) of subsection 2 of this section. The limitation on payments from the state legal expense fund or any policy of insurance procured pursuant to section 105.721 as provided in subsection 6 of this section shall not apply to any claim or judgment arising under subdivision (5) of subsection 2 of this section. Any claim or judgment arising under subdivision (5) of subsection 2 of this section shall be paid by the state legal expense fund or any policy of insurance procured pursuant to section 105.721. Liability or malpractice insurance otherwise obtained and maintained in force shall not be considered available under subsection 6 of this section to pay that portion of a judgment or claim for which the state legal expense fund is liable under subdivision (5) of subsection 2 of this section. However, an attorney may obtain liability or malpractice insurance for coverage of liability claims or judgments based upon legal practice rendered under subdivision (5) of subsection 2 of this section that exceed the amount of liability coverage provided by the state legal expense fund under subdivision (5) of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this section is repealed or amended, the state legal expense fund shall be available for damages that occur while the pertinent subdivision (5) of subsection 2 of this section is in effect.

5. All payments shall be made from the state legal expense fund by the commissioner of administration with the approval of the attorney general. Payment from the state legal expense fund of a claim or final judgment award against a physician, dentist, physician assistant, dental hygienist, or nurse described in paragraph (a), (b), (c), (d), or (e) of subdivision (3) of subsection 2 of this section, **or against an attorney in subdivision (5) of subsection 2 of this section**, shall only be made for services rendered in accordance with the conditions of such paragraphs.

[5.] **6.** Except as provided in subsection 3 of this section, in the case of any claim or judgment that arises under sections 537.600 and 537.610, RSMo, against the state of Missouri, or an agency of the state, the aggregate of payments from the state legal expense fund and from any policy of insurance procured pursuant to the provisions of section 105.721 shall not exceed the limits of liability as provided in sections 537.600 to 537.610, RSMo. No payment shall be made from the state legal expense fund or any policy of insurance procured with state funds pursuant to section 105.721 unless and until the benefits provided to pay the claim by any other policy of liability insurance have been exhausted.

[6.] **7.** The provisions of section 33.080, RSMo, notwithstanding, any moneys remaining to the credit of the state legal expense fund at the end of an appropriation period shall not be transferred to general revenue.

[7.] **8.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority delegated in sections 105.711 to 105.726 shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

Approved July 9, 2004

SB 1249 [SB 1249]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the preference given by state purchasing entities to Missouri businesses.

AN ACT to repeal sections 34.010 and 34.070, RSMo, and to enact in lieu thereof three new sections relating to state purchasing.

SECTION

- A. Enacting clause.
- 34.010. Definitions.
- 34.070. Preference to Missouri products and firms.
- 34.363. Listing of Missouri products, office of administration to compile and provide access — state agencies to make good faith search for Missouri companies to provide products and services.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 34.010 and 34.070, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 34.010, 34.070, and 34.363, to read as follows:

34.010. DEFINITIONS. — 1. The term "department" as used in this chapter shall be deemed to mean department, office, board, commission, bureau, institution, or any other agency of the state, except the legislative and judicial departments.

2. **The term "lowest and best" in determining the lowest and best award, cost, and other factors are to be considered in the evaluation process. Factors may include, but are not limited to, value, performance, and quality of a product.**

3. **The term "Missouri product", refers to goods or commodities, which are manufactured, mined, produced, or grown by companies in Missouri, or services provided by such companies.**

4. The term "negotiation" as used in this chapter means the process of selecting a contractor by the competitive methods described in this chapter, whereby the commissioner of administration can establish any and all terms and conditions of a procurement contract by discussion with one or more prospective contractors.

[3.] **5.** The term "purchase" as used in this chapter shall include the rental or leasing of any equipment, articles or things.

[4.] **6.** The term "supplies" used in this chapter shall be deemed to mean supplies, materials, equipment, contractual services and any and all articles or things, except for utility services regulated under chapter 393, RSMo, or as in this chapter otherwise provided.

7. The term "value", includes, but is not limited to price, performance, and quality. In assessing value, the state purchaser may consider the economic impact to the state of Missouri for Missouri products versus the economic impact of products generated from out of state. This economic impact may include the revenues returned to the state through tax revenue obligations.

34.070. PREFERENCE TO MISSOURI PRODUCTS AND FIRMS. — In making purchases, the commissioner of administration **or any agent of the state with purchasing power**, shall give preference to all commodities and tangible personal property manufactured, mined, produced or grown within the state of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals, when quality is equal or better and delivered price is the same or less. The commissioner of administration **or any agent of the state with purchasing power**, may also give such preference whenever competing bids, in their entirety, are comparable.

34.363. LISTING OF MISSOURI PRODUCTS, OFFICE OF ADMINISTRATION TO COMPILE AND PROVIDE ACCESS — STATE AGENCIES TO MAKE GOOD FAITH SEARCH FOR MISSOURI COMPANIES TO PROVIDE PRODUCTS AND SERVICES. — **1. The commissioner of the office of administration shall compile a listing of Missouri products and provide access to such listing to all state government agencies, public institutions of higher education, and other interested parties. The commissioner of the office of administration shall also make efforts to identify and give notice of state government bidding opportunities to Missouri manufacturers or service providers. Further, the commissioner of the office of administration shall ensure state agencies follow the requirements of this section and the Missouri preference provisions set forth in this chapter.**

2. State government agencies shall make a good faith search of Missouri companies that provide Missouri manufactured products or services.

3. Upon request of a Missouri company who applied for but was not awarded the state contract, the state department which awarded the contract shall prepare a written explanation within twenty days of the award explaining why the Missouri manufacturer or service provider did not receive the award.

Approved June 25, 2004

SB 1250 [SCS SB 1250]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to the Missouri Propane Education and Research Council.

AN ACT to repeal section 414.560, RSMo, and to enact in lieu thereof one new section relating to Missouri propane education and research council.

SECTION

A. Enacting clause.

414.560. Selection of members — number of members, compensation, terms — chairman, president — budget — programs and projects — records — costs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 414.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 414.560, to read as follows:

414.560. SELECTION OF MEMBERS — NUMBER OF MEMBERS, COMPENSATION, TERMS — CHAIRMAN, PRESIDENT — BUDGET — PROGRAMS AND PROJECTS — RECORDS — COSTS.

— 1. Upon issuance of an order by the director establishing the Missouri propane education and research council, the director shall select all members of the council from a list of nominees submitted by qualified industry organizations. Vacancies in unfinished terms of council members may be filled by the council, subject to approval of the director.

2. In making nominations and appointments to the council, the qualified industry organizations and the director shall give due regard to selecting a council that is representative of the industry, and the geographic regions of the state.

3. The council shall consist of fifteen members, with [six] **nine** members representing retail marketers of propane; [six] **three** members representing [producers] **wholesalers or resellers** of propane; two members representing manufacturers and distributors of gas use equipment, wholesalers or resellers, or transporters; and one public member. Other than the public member, council members shall be full-time employees or owners of businesses in the industry.

4. Council members shall receive no compensation for their services, but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

5. Council members shall serve terms of three years; except that of the initial members appointed, five shall be appointed for terms of one year, five shall be appointed for terms of two years and five shall be appointed for terms of three years. Members may [serve] **be appointed to a maximum of two consecutive full terms. Members filling unexpired terms [may serve a maximum of seven consecutive years] will not have any partial term of service count against the two-term limitation.** Former members of the council may be reappointed to the council if they have not been members for a period of [two years] **one year.**

6. The council shall select from among its members a chairman and other officers as necessary, establish committees and subcommittees of the council, and adopt rules and bylaws for the conduct of business. The council may establish advisory committees of persons other than council members.

7. The council may employ a president to serve as chief executive officer and such other employees as it deems necessary. The council may enter into contracts with, use facilities and equipment of, or employ personnel of a qualified industry organization in carrying out its responsibilities under sections 414.500 to 414.590. It shall determine the compensation and duties of each, and protect the handling of council funds through fidelity bonds.

8. At the beginning of each fiscal period, the council shall prepare and submit to the director a budget plan including the probable costs of all programs, projects and contracts and a recommended rate of assessment sufficient to cover such costs. The director shall approve or recommend changes to the budget after an opportunity for public comment.

9. The council shall develop programs and projects and enter into contracts or agreements for implementing the policy of sections 414.500 to 414.590, including programs of research, development, education, and marketing, and for the payment of the costs thereof with funds collected pursuant to sections 414.500 to 414.590. The council shall coordinate its activities with industry trade associations to provide efficient delivery of services and to avoid unnecessary duplication of activities.

10. The council shall keep minutes, books, records that clearly reflect all of the acts and transactions of the council and regularly report such information to the director, along with such other information as the director may require. The books of the council shall be audited by a certified public accountant at least once each fiscal year and at such other times as the council may designate. Copies of such audit shall be provided to the director, all members of the

council, all qualified industry organizations, and to other members of the industry upon request. The director shall receive notice of meetings and may require reports on the activities of the council, as well as reports on compliance, violations and complaints regarding the implementation of sections 414.500 to 414.590.

11. From assessments collected, the council shall annually reimburse the director for costs incurred in holding the referendum establishing the council, making appointments to the council, and other expenses directly related to the council.

Approved July 1, 2004

SB 1253 [SCS SB 1253]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Clarifies the definition of "city" as it relates to urban redevelopment corporations.

AN ACT to repeal section 353.020, RSMo, and to enact in lieu thereof one new section relating to urban redevelopment.

SECTION

- A. Enacting clause.
- 353.020. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 353.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 353.020, to read as follows:

353.020. DEFINITIONS. — The following terms, whenever used or referred to in this chapter, mean:

(1) "Area", that portion of the city which the legislative authority of such city has found or shall find to be blighted so that the clearance, replanning, rehabilitation, or reconstruction thereof is necessary to effectuate the purposes of this law. Any such area may include buildings or improvements not in themselves blighted, and any real property, whether improved or unimproved, the inclusion of which is deemed necessary for the effective clearance, replanning, reconstruction or rehabilitation of the area of which such buildings, improvements or real property form a part;

(2) "Blighted area", that portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design or physical deterioration, have become economic and social liabilities, and that such conditions are conducive to ill health, transmission of disease, crime or inability to pay reasonable taxes;

(3) "City" or "such cities", any city within this state and [in] any county of the first classification with a charter form of government and a population of at least nine hundred thousand inhabitants **or any county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants**. The county's authority pursuant to this chapter shall be restricted to the unincorporated areas of such county;

(4) "Development plan", a plan, together with any amendments thereto, for the development of all or any part of a blighted area, which is authorized by the legislative authority of any such city;

(5) "Legislative authority", the city council or board of aldermen of the cities affected by this chapter;

(6) "Mortgage", a mortgage, trust indenture, deed of trust, building and loan contract, or other instrument creating a lien on real property, to secure the payment of an indebtedness, and the indebtedness secured by any of them;

(7) "Real property" includes lands, buildings, improvements, land under water, waterfront property, and any and all easements, franchises and hereditaments, corporeal or incorporeal, and every estate, interest, privilege, easement, franchise and right therein, or appurtenant thereto, legal or equitable, including restrictions of record, created by plat, covenant or otherwise, rights-of-way and terms for years;

(8) "Redevelopment", the clearance, replanning, reconstruction or rehabilitation of any blighted area, and the provision for such industrial, commercial, residential or public structures and spaces as may be appropriate, including recreational and other facilities incidental or appurtenant thereto;

(9) "Redevelopment project", a specific work or improvement to effectuate all or any part of a development plan;

(10) "Urban redevelopment corporation", a corporation organized pursuant to this chapter; except that any life insurance company organized pursuant to the laws of, or admitted to do business in, the state of Missouri may from time to time within five years after April 23, 1946, undertake, alone or in conjunction with, or as a lessee of any such life insurance company or urban redevelopment corporation, a redevelopment project pursuant to this chapter, and shall, in its operations with respect to any such redevelopment project, but not otherwise, be deemed to be an urban redevelopment corporation for the purposes of this section and sections 353.010, 353.040, 353.060 and 353.110 to 353.160.

Approved July 2, 2004

SB 1259 [HCS SB 1259]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain nonresidents to operate a vessel on the lakes of this state with a temporary boater education permit.

AN ACT to repeal section 306.127, RSMo, and to enact in lieu thereof one new section relating to temporary boater education permits.

SECTION

A. Enacting clause.

306.127. Boating safety identification card required, when, requirements, fee — inapplicable, when — temporary boater education permit issued to nonresidents, when, rules, fee authorized, expiration date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 306.127, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 306.127, to read as follows:

306.127. BOATING SAFETY IDENTIFICATION CARD REQUIRED, WHEN, REQUIREMENTS, FEE — INAPPLICABLE, WHEN — TEMPORARY BOATER EDUCATION PERMIT ISSUED TO NONRESIDENTS, WHEN, RULES, FEE AUTHORIZED, EXPIRATION DATE. — 1. Beginning

January 1, 2005, every person born after January 1, 1984, or as required pursuant to section 306.128, operates a vessel on the lakes of this state shall possess, on the vessel, a boating safety identification card issued by the Missouri state water patrol or its agent which shows that he or she has:

(1) Successfully completed a boating safety course approved by the National Association of State Boating Law Administrators and certified by the Missouri state water patrol. The boating safety course may include a course sponsored by the United States Coast Guard Auxiliary or the United States Power Squadron. The Missouri state water patrol may appoint agents to administer a boater education course or course equivalency examination and issue boater identification cards under guidelines established by the water patrol. The Missouri state water patrol shall maintain a list of approved courses; or

(2) Successfully passed an equivalency examination prepared by the Missouri state water patrol and administered by the Missouri state water patrol or its agent. The equivalency examination shall have a degree of difficulty equal to, or greater than, that of the examinations given at the conclusion of an approved boating safety course; or

(3) A valid master's, mate's, or operator's license issued by the United States Coast Guard.

2. The Missouri state water patrol or its agent shall issue a permanent boating safety identification card to each person who complies with the requirements of this section which is valid for life unless invalidated pursuant to law.

3. The Missouri state water patrol may charge a fee for such card or any replacement card that does not substantially exceed the costs of administering this section. The Missouri state water patrol or its designated agent shall collect such fees. These funds shall be forwarded to general revenue.

4. The provisions of this section shall not apply to any person who:

(1) Is licensed by the United States Coast Guard to serve as master of a vessel;

(2) Operates a vessel only on a private lake or pond that is not classified as waters of the state;

(3) Until January 1, 2006, is a nonresident who is visiting the state for sixty days or less;

(4) Is participating in an event or regatta approved by the water patrol;

(5) Is a nonresident who has proof of a valid boating certificate or license issued by another state if the boating course is approved by the National Association of State Boating Law Administrators (NASBLA);

(6) Is exempted by rule of the water patrol;

(7) Is currently serving in any branch of the United States armed forces, reserves, or Missouri national guard, or any spouse of a person currently in such service; or

(8) Has previously successfully completed a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA).

5. The Missouri state water patrol shall inform other states of the requirements of this section.

6. No individual shall be detained or stopped strictly for the purpose of checking [for said] **whether the individual possesses a boating safety identification card or a temporary boater education permit.**

7. Beginning January 1, 2006, any nonresident born after January 1, 1984, desiring to operate a rental vessel on the lakes of this state, may obtain a temporary boater education permit by completing and passing a written examination developed by the Missouri state water patrol, provided the person meets the minimum age requirements for operating a vessel in this state. The Missouri state water patrol is authorized to promulgate rules for developing the examination and any requirements necessary for issuance of the temporary boater education permit. The temporary boater education permit shall expire when the nonresident obtains a permanent identification card pursuant to subsection 2 of this section or thirty days after issuance, whichever occurs first. The Missouri state water patrol may charge a fee not to exceed ten dollars for such

temporary permit. Upon successful completion of an examination and prior to renting a vessel, the business entity responsible for giving the examination shall collect such fee and forward all collected fees to the Missouri state water patrol on a monthly basis for deposit in the state general revenue fund. Such business entity shall incur no additional liability in accepting the responsibility for administering the examination. This subsection shall terminate on December 31, 2010.

Approved July 2, 2004

SB 1274 [HCS SB 1274]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Missouri Area Health Education Centers program.

AN ACT to amend chapter 191, RSMo, by adding thereto one new section relating to area health education centers.

SECTION

A. Enacting clause.

191.1015. Missouri Area Health Education Centers program established — council established, membership, term — authority of council — duties — report required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.1015, to read as follows:

191.1015. MISSOURI AREA HEALTH EDUCATION CENTERS PROGRAM ESTABLISHED — COUNCIL ESTABLISHED, MEMBERSHIP, TERM — AUTHORITY OF COUNCIL — DUTIES — REPORT REQUIRED. — 1. The "Missouri Area Health Education Centers" program is hereby established as a collaborative partnership of higher educational institutions and regional area health education centers and other entities that have entered into a written agreement with the program. These higher educational institutions and regional area health education centers shall be those that are recognized as program offices or regional centers by the federal area health education centers program pursuant to 42 U.S.C. Section 294a. The program is designed to improve the supply, distribution, availability, and quality of health care personnel in Missouri communities and promote access to primary care for medically underserved communities and populations.

2. The Missouri area health education centers council is hereby established within the department of health and senior services. The council shall consist of twelve members that are residents of Missouri. The members of the council shall include:

(1) The director of the department of health and senior services or the director's designee;

(2) The commissioner of the department of higher education or the commissioner's designee;

(3) Two members of the senate appointed by the president pro tempore of the senate;

(4) Two members of the house of representatives appointed by the speaker of the house of representatives; and

(5) Six members to be appointed by the governor with the advice and consent of the senate, four of whom shall represent the federally recognized regional area health

education centers and two of whom shall represent the federally recognized higher educational institution program offices. Each representative of the regional area health education centers shall be a member of the governing or advisory board of a regional center and shall be nominated jointly by the chairs of the governing or advisory boards of all such centers. No two representatives shall be members of the same regional center governing or advisory board. Each representative of the federally recognized higher educational institution program offices shall be an employee or faculty of a medical school in which a program office resides and shall be nominated jointly by the deans of all such medical schools. The two program office representatives shall not be employees or faculty of the same medical school.

Members of the council shall be appointed by February 1, 2005. Of the members first appointed to the council, six shall serve a term of four years and six shall serve a term of two years, and thereafter, members shall serve a term of four years. Members shall continue to serve until their successor is duly appointed and qualified. Any vacancy on the council shall be filled in the same manner as the original appointment.

3. The council shall have discretionary authority to monitor and recommend policy direction for the Missouri area health education centers program, including policies to ensure that all applicable requirements of the federal area health education centers program are met.

4. The area health education centers program shall:

(1) Develop and enhance health careers recruitment programs for Missouri students, especially underrepresented and disadvantaged students;

(2) Enhance and support community-based training of health professions students and medical residents;

(3) Provide educational and other programs designed to support practicing health professionals; and

(4) Collaborate with health, education, and human services organizations to design, facilitate, and promote programs to improve access to health care and health status in Missouri.

5. The Missouri area health education centers council shall report annually to the governor and the general assembly on the status and progress of the Missouri area health education centers program.

Approved July 9, 2004

SB 1279 [HCS SS SCS SB 1279]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Missouri Hospital Infection Control Act.

AN ACT to repeal sections 192.020, 192.067, 192.138, 192.665, 192.667, and 197.293, RSMo, and to enact in lieu thereof seventeen new sections relating to health care facilities, with penalty provisions.

SECTION

A. Enacting clause.

192.020. To safeguard the health of the people of Missouri — certain diseases to be included on communicable or infectious disease list.

192.021. Citation.

- 192.067. Patients' medical records, department may receive information from — purpose — confidentiality — immunity for persons releasing records, exception — penalty — costs, how paid.
- 192.131. Definitions — health care-associated infections data to be reported — confidentiality — plan to help monitoring to be developed — required standards.
- 192.138. Contagious or infectious disease reports by medical treatment facilities and nursing homes.
- 192.665. Definitions.
- 192.667. Health care providers, financial data, submission of data on nosocomial infections to be collected, rules, recommendation — federal system may be implemented — use of data by department of health and senior services, duties, restrictions, penalty — publication of information, when — failure to provide information, effect — public reports required, when, requirements — rulemaking authority.
- 197.150. Procedures for compliance, requirements.
- 197.152. Protection for reporting infection control concerns, report required — authority of infection control officers, review of orders — good faith reporting of infection control concerns protected.
- 197.154. Regulation review and update required, standards.
- 197.156. Definition of nosocomial infection outbreaks.
- 197.158. Complaint procedure to be provided to patients.
- 197.160. Infection data to be available to department of health and senior services, violation, effect, state payments suspended, when.
- 197.162. Infection control practices to be considered in licensure process, annual report required.
- 197.165. Infection control advisory panel appointed — members — expenses, fund created.
- 197.293. Licensure regulations, standards used by the department of health and senior services for enforcement.
- 197.294. Use of certain information to establish standards of care prohibited in private civil actions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 192.020, 192.067, 192.138, 192.665, 192.667, and 197.293, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 192.020, 192.021, 192.067, 192.131, 192.138, 192.665, 192.667, 197.150, 197.152, 197.154, 197.156, 197.158, 197.160, 197.162, 197.165, 197.293, and 197.294, to read as follows:

192.020. TO SAFEGUARD THE HEALTH OF THE PEOPLE OF MISSOURI — CERTAIN DISEASES TO BE INCLUDED ON COMMUNICABLE OR INFECTIOUS DISEASE LIST. — **1.** It shall be the general duty and responsibility of the department of health and senior services to safeguard the health of the people in the state and all its subdivisions. It shall make a study of the causes and prevention of diseases. It shall designate those diseases which are infectious, contagious, communicable or dangerous in their nature and shall make and enforce adequate orders, findings, rules and regulations to prevent the spread of such diseases and to determine the prevalence of such diseases within the state. It shall have power and authority, with approval of the director of the department, to make such orders, findings, rules and regulations as will prevent the entrance of infectious, contagious and communicable diseases into the state.

2. The department of health and senior services shall include in its list of communicable or infectious diseases which must be reported to the department methicillin-resistant staphylococcus aureus (MRSA) and vancomycin-resistant enterococcus (VRE).

192.021. CITATION. — This act shall be known and may be cited as the "Missouri Nosocomial Infection Control Act of 2004". The purpose of the act is to decrease the incidence of infection within health care facilities in this state.

192.067. PATIENTS' MEDICAL RECORDS, DEPARTMENT MAY RECEIVE INFORMATION FROM — PURPOSE — CONFIDENTIALITY — IMMUNITY FOR PERSONS RELEASING RECORDS, EXCEPTION — PENALTY — COSTS, HOW PAID. — **1.** The department of health and senior services, for purposes of conducting epidemiological studies to be used in promoting and safeguarding the health of the citizens of Missouri under the authority of this chapter is authorized to receive information from patient medical records. **The provisions of this section shall also apply to the collection, analysis, and disclosure of nosocomial infection data from patient records collected pursuant to section 192.667.**

2. The department shall maintain the confidentiality of all medical record information abstracted by or reported to the department. Medical information secured pursuant to the provisions of subsection 1 of this section may be released by the department only in a statistical aggregate form that precludes and prevents the identification of patient, physician, or medical facility except that medical information may be shared with other public health authorities and coinvestigators of a health study if they abide by the same confidentiality restrictions required of the department of health and senior services **and except as otherwise authorized by the provisions of sections 192.665 to 192.667**. The department of health and senior services, public health authorities and coinvestigators shall use the information collected only for the purposes provided for in this section **and section 192.667**.

3. No individual or organization providing information to the department in accordance with this section shall be deemed to be or be held liable, either civilly or criminally, for divulging confidential information unless such individual organization acted in bad faith or with malicious purpose.

4. The department of health and senior services is authorized to reimburse medical care facilities, within the limits of appropriations made for that purpose, for the costs associated with abstracting data for special studies.

5. Any department of health and senior services employee, public health authority or coinvestigator of a study who knowingly releases information which violates the provisions of this section shall be guilty of a class A misdemeanor and, upon conviction, shall be punished as provided by law.

192.131. DEFINITIONS — HEALTH CARE-ASSOCIATED INFECTIONS DATA TO BE REPORTED — CONFIDENTIALITY — PLAN TO HELP MONITORING TO BE DEVELOPED — REQUIRED STANDARDS. — 1. As used in this section, the following terms shall mean:

(1) "Advisory panel", the infection control advisory panel created by section 197.165, RSMo;

(2) "Antibiogram", a record of the resistance of microbes to various antibiotics;

(3) "Antimicrobial", the ability of an agent to destroy or prevent the development of pathogenic action of a microorganism;

(4) "Department", the department of health and senior services.

2. Every laboratory performing culture and sensitivity testing on humans in Missouri shall submit data on health care associated infections to the department in accordance with this section. The data to be reported shall be defined by regulation of the department after considering the recommendations of the advisory panel. Such data may include antibiograms and, not later than July 1, 2005, shall include but not be limited to the number of patients or isolates by hospital, ambulatory surgical center, and other facility or practice setting with methicillin-resistant staphylococcus aureus (MRSA) or vancomycin-resistant enterococcus (VRE).

3. Information on infections collected pursuant to this section shall be subject to the confidentiality protections of this chapter but shall be available in provider-specific form to appropriate facility and professional licensure authorities.

4. The advisory panel shall develop a recommended plan to use laboratory and health care provider data provided pursuant to this chapter to create a system to:

(1) Enhance the ability of health care providers and the department to track the incidence and distribution of preventable infections, with emphasis on those infections that are most susceptible to interventions and that pose the greatest risk of harm to Missouri residents;

(2) Monitor trends in the development of antibiotic-resistant microbes, including but not limited to methicillin-resistant staphylococcus aureus (MRSA) and vancomycin-resistant enterococcus (VRE) infections.

5. In implementing this section, the advisory panel and the department shall conform to guidelines and standards adopted by the centers for disease control and prevention. The advisory panel's plan may provide for demonstration projects to assess the viability of the recommended initiatives.

192.138. CONTAGIOUS OR INFECTIOUS DISEASE REPORTS BY MEDICAL TREATMENT FACILITIES AND NURSING HOMES. — Other provisions of the law to the contrary notwithstanding, requirements imposed by state law or regulation that institutions defined under chapters 197, RSMo, and 198, RSMo, make notifications concerning patients who are diagnosed as having reportable infectious or contagious diseases shall apply to such institutions provided that such notifications are consistent with federal laws and rules and regulations imposed thereunder governing the confidentiality of records of patients receiving medical assistance under the provisions of federal law [and further provide that such institutions failing to make such notifications shall not be deemed to have violated any state law or regulation requiring notification or considered civilly liable unless such institutions acted in bad faith or with malicious purpose].

192.665. DEFINITIONS. — As used in this section [and], section 192.667, and sections 197.150 to 197.165, RSMo, the following terms mean:

- (1) "Charge data", information submitted by health care providers on current charges for leading procedures and diagnoses;
- (2) "Charges by payer", information submitted by hospitals on amount billed to Medicare, Medicaid, other government sources and all nongovernment sources combined as one data element;
- (3) "Department", the department of health and senior services;
- (4) "Financial data", information submitted by hospitals drawn from financial statements which includes the balance sheet, income statement, charity care and bad debt and charges by payer, prepared in accordance with generally accepted accounting principles;
- (5) "Health care provider", hospitals as defined in section 197.020, RSMo, and ambulatory surgical centers as defined in section 197.200, RSMo;
- (6) "Nosocomial infection", as defined by the national Centers for Disease Control and Prevention and applied to infections within hospitals, ambulatory surgical centers, and other facilities;
- (7) "Nosocomial infection incidence rate", a risk-adjusted measurement of new cases of nosocomial infections by procedure or device within a population over a given period of time, with such measurements defined by rule of the department pursuant to subsection 3 of section 192.667 for use by all hospitals, ambulatory surgical centers, and other facilities in complying with the requirements of the Missouri nosocomial infection control act of 2004;
- (8) "Other facility", a type of facility determined to be a source of infections and designated by rule of the department pursuant to subsection 11 of section 192.667;
- (9) "Patient abstract data", data submitted by hospitals which includes but is not limited to date of birth, sex, race, zip code, county of residence, admission date, discharge date, principal and other diagnoses, including external causes, principal and other procedures, procedure dates, total billed charges, disposition of the patient and expected source of payment with sources categorized according to Medicare, Medicaid, other government, workers' compensation, all commercial payors coded with a common code, self-pay, no charge and other.

192.667. HEALTH CARE PROVIDERS, FINANCIAL DATA, SUBMISSION OF DATA ON NOSOCOMIAL INFECTIONS TO BE COLLECTED, RULES, RECOMMENDATION — FEDERAL SYSTEM MAY BE IMPLEMENTED — USE OF DATA BY DEPARTMENT OF HEALTH AND SENIOR SERVICES, DUTIES, RESTRICTIONS, PENALTY — PUBLICATION OF INFORMATION, WHEN —

FAILURE TO PROVIDE INFORMATION, EFFECT — PUBLIC REPORTS REQUIRED, WHEN, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. All health care providers shall at least annually provide to the department charge data as required by the department. All hospitals shall at least annually provide patient abstract data and financial data as required by the department. Hospitals as defined in section 197.020, RSMo, shall report patient abstract data for outpatients and inpatients. Within one year of August 28, 1992, ambulatory surgical centers as defined in section 197.200, RSMo, shall provide patient abstract data to the department. The department shall specify by rule the types of information which shall be submitted and the method of submission.

2. The department shall collect data on required nosocomial infection incidence rates from hospitals, ambulatory surgical centers, and other facilities as necessary to generate the reports required by this section. Hospitals, ambulatory surgical centers, and other facilities shall provide such data in compliance with this section.

3. No later than July 1, 2005, the department shall promulgate rules specifying the standards and procedures for the collection, analysis, risk adjustment, and reporting of nosocomial infection incidence rates and the types of infections and procedures to be monitored pursuant to subsection 12 of this section. In promulgating such rules, the department shall:

(1) Use methodologies and systems for data collection established by the federal Centers for Disease Control and Prevention National Nosocomial Infection Surveillance System, or its successor; and

(2) Consider the findings and recommendations of the infection control advisory panel established pursuant to section 197.165, RSMo.

4. The infection control advisory panel created by section 197.165, RSMo, shall make a recommendation to the department regarding the appropriateness of implementing all or part of the nosocomial infection data collection, analysis, and public reporting requirements of this act by authorizing hospitals, ambulatory surgical centers, and other facilities to participate in the federal Centers for Disease Control and Prevention's National Nosocomial Infection Surveillance System, or its successor. The advisory panel shall consider the following factors in developing its recommendation:

(1) Whether the public is afforded the same or greater access to facility-specific infection control indicators and rates than would be provided under subsections 2, 3, and 6 to 12 of this section;

(2) Whether the data provided to the public are subject to the same or greater accuracy of risk adjustment than would be provided under subsections 2, 3, and 6 to 12 of this section;

(3) Whether the public is provided with the same or greater specificity of reporting of infections by type of facility infections and procedures than would be provided under subsections 2, 3, and 6 to 12 of this section;

(4) Whether the data are subject to the same or greater level of confidentiality of the identity of an individual patient than would be provided under subsection 2, 3, and 6 to 12 of this section;

(5) Whether the National Nosocomial Infection Surveillance System, or its successor, has the capacity to receive, analyze, and report the required data for all facilities;

(6) Whether the cost to implement the nosocomial infection data collection and reporting system is the same or less than under subsections 2, 3, and 6 to 12 of this section.

5. Based on the affirmative recommendation of the infection control advisory panel, and provided that the requirements of subsection 12 of this section can be met, the department may or may not implement the federal Centers for Disease Control and Prevention Nosocomial Infection System, or its successor, as an alternative means of complying with the requirements of subsections 2, 3, and 6 to 12 of this section. If the department chooses to implement the use of the federal Centers for Disease Control

Prevention Nosocomial Infection System, or its successor, as an alternative means of complying with the requirements of subsections 2, 3, and 6 to 12 of this section, it shall be a condition of licensure for hospitals and ambulatory surgical centers which opt to participate in the federal program to permit the federal program to disclose facility-specific data to the department as necessary to provide the public reports required by the department. Any hospital or ambulatory surgical center which does not voluntarily participate in the National Nosocomial Infection Surveillance System, or its successor, shall be required to abide by all of the requirements of subsections 2, 3, and 6 to 12 of this section.

6. The department shall not require the resubmission of data which has been submitted to the department of health and senior services or the department of social services under any other provision of law. The department of health and senior services shall accept data submitted by associations or related organizations on behalf of health care providers by entering into binding agreements negotiated with such associations or related organizations to obtain data required pursuant to section 192.665 and this section. A health care provider shall submit the required information to the department of health and senior services:

(1) If the provider does not submit the required data through such associations or related organizations;

(2) If no binding agreement has been reached within ninety days of August 28, 1992, between the department of health and senior services and such associations or related organizations; or

(3) If a binding agreement has expired for more than ninety days.

[3.] **7.** Information obtained by the department under the provisions of section 192.665 and this section shall not be public information. Reports and studies prepared by the department based upon such information shall be public information and may identify individual health care providers. The department of health and senior services may authorize the use of the data by other research organizations pursuant to the provisions of section 192.067. The department shall not use or release any information provided under section 192.665 and this section which would enable any person to determine any health care provider's negotiated discounts with specific preferred provider organizations or other managed care organizations. The department shall not release data in a form which could be used to identify a patient. Any violation of this subsection is a class A misdemeanor.

[4.] **8.** The department shall undertake a reasonable number of studies and publish information, including at least an annual consumer guide, in collaboration with health care providers, business coalitions and consumers based upon the information obtained pursuant to the provisions of section 192.665 and this section. The department shall allow all health care providers and associations and related organizations who have submitted data which will be used in any report to review and comment on the report prior to its publication or release for general use. The department shall include any comments of a health care provider, at the option of the provider, and associations and related organizations in the publication if the department does not change the publication based upon those comments. The report shall be made available to the public for a reasonable charge.

[5.] **9.** Any health care provider which continually and substantially, as these terms are defined by rule, fails to comply with the provisions of this section shall not be allowed to participate in any program administered by the state or to receive any moneys from the state.

[6.] **10.** A hospital, as defined in section 197.020, RSMo, aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection [5] 9 of this section may appeal as provided in section 197.071, RSMo. An ambulatory surgical center as defined in section 197.200, RSMo, aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection [5] 9 of this section may appeal as provided in section 197.221, RSMo.

[7. No rule or portion of a rule promulgated under the authority of section 192.665 and this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

11. The department of health may promulgate rules providing for collection of data and publication of nosocomial infection incidence rates for other types of health facilities determined to be sources of infections; except that, physicians' offices shall be exempt from reporting and disclosure of infection incidence rates.

12. In consultation with the infection control advisory panel established pursuant to section 197.165, RSMo, the department shall develop and disseminate to the public reports based on data compiled for a period of twelve months. Such reports shall be updated quarterly and shall show for each hospital, ambulatory surgical center, and other facility a risk-adjusted nosocomial infection incidence rate for the following types of infection:

- (1) Class I surgical site infections;**
- (2) Ventilator-associated pneumonia;**
- (3) Central line-related bloodstream infections;**
- (4) Other categories of infections that may be established by rule by the department.**

The department, in consultation with the advisory panel, shall be authorized to collect and report data on subsets of each type of infection described in this subsection.

13. In the event the provisions of this act are implemented by requiring hospitals, ambulatory surgical centers, and other facilities to participate in the federal Centers for Disease Control and Prevention National Nosocomial Infection Surveillance System, or its successor, the types of infections to be publicly reported shall be determined by the department by rule and shall be consistent with the infections tracked by the National Nosocomial Infection Surveillance System, or its successor.

14. Reports published pursuant to subsection 12 of this section shall be published on the department's Internet website. The initial report shall be issued by the department not later than December 31, 2006. The reports shall be distributed at least annually to the governor and members of the general assembly.

15. The Hospital Industry Data Institute shall publish a report of Missouri hospitals' and ambulatory surgical centers' compliance with standardized quality of care measures established by the federal Centers for Medicare and Medicaid Services for prevention of infections related to surgical procedures. If the Hospital Industry Data Institute fails to do so by July 31, 2008, and annually thereafter, the department shall be authorized to collect information from the Centers for Medicare and Medicaid Services or from hospitals and ambulatory surgical centers and publish such information in accordance with subsection 14 of this section.

16. The data collected or published pursuant to this section shall be available to the department for purposes of licensing hospitals and ambulatory surgical centers pursuant to chapter 197, RSMo.

17. The department shall promulgate rules to implement the provisions of section 192.131 and sections 197.150 to 197.160, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

197.150. PROCEDURES FOR COMPLIANCE, REQUIREMENTS. — The department shall require that each hospital, ambulatory surgical center, and other facility have in place

procedures for monitoring and enforcing compliance with infection control regulations and standards. Such procedures shall be coordinated with administrative staff, personnel staff, and the quality improvement program. Such procedures shall include, at a minimum, requirements for the facility's infection control program to conduct surveillance of personnel with a portion of the surveillance to be done in such manner that employees and medical staff are observed without their knowledge of such observation, provided that this unobserved surveillance requirement shall not be considered to be grounds for licensure enforcement action by the department until the department establishes clear and verifiable criteria for determining compliance. Such surveillance also may include monitoring of the rate of use of hand hygiene products.

197.152. PROTECTION FOR REPORTING INFECTION CONTROL CONCERNS, REPORT REQUIRED — AUTHORITY OF INFECTION CONTROL OFFICERS, REVIEW OF ORDERS — GOOD FAITH REPORTING OF INFECTION CONTROL CONCERNS PROTECTED. — 1. Infection control officers as defined in federal regulation and other hospital and ambulatory surgical center employees shall be protected against retaliation by the hospital or ambulatory surgical center for reporting infection control concerns pursuant to section 197.285 and shall be entitled to the full benefits of that section. Such infection control officers shall report any interference in the performance of their duties by their supervisors to the hospital or ambulatory surgical center compliance officer established by and empowered to act pursuant to section 197.285.

2. Infection control officers as defined in federal regulation shall also have the authority to order the cessation of a practice that falls outside accepted practices as defined by appropriate state and federal regulatory agencies, accreditation organizations, or the standards adopted by the Centers for Disease Control and Prevention or the Association of Professionals in Infection Control and Epidemiology. The hospital or ambulatory surgical center may require that such a cessation order of an infection control officer be endorsed by the hospital or ambulatory surgical center chief executive officer or his or her designee before taking effect. The hospital or ambulatory surgical center infection control committee shall convene as soon as possible to review such cessation order and may overrule or sustain the directive of the infection control officer. The department shall promulgate rules governing documentation of such events.

3. Members of the medical staff who report in good faith infection control concerns to the hospital or ambulatory surgical center administration or medical staff leadership shall not be subject to retaliation or discrimination for doing so. Nothing in this section shall prevent or shield medical staff members from being subject to professional review actions for substandard care or breach of standards established in hospital policy, rules, or medical staff bylaws.

197.154. REGULATION REVIEW AND UPDATE REQUIRED, STANDARDS. — No later than July 1, 2005, the department shall review and update its current regulations governing hospital and ambulatory surgical center infection control programs. Such standards shall be based upon nationally recognized standards and shall include, but not be limited to, standards for:

- (1) Maintaining databases to be used for infection tracking;
- (2) Developing hospital protocols related to aseptic technique and infection control practices including but not limited to handwashing, isolation, and other infection control policies;
- (3) Developing appropriate corrective action plans and follow-ups for any deficiencies identified in hospital infection control practices;
- (4) Conducting root cause analysis and follow-up of sentinel events, as defined by the Joint Commission on Accreditation of Health Organizations, attributable to nosocomial infections; and

(5) Ensuring that hospital and ambulatory surgical center policies and medical staff bylaws are in place to promote and enforce compliance with infection control policies.

197.156. DEFINITION OF NOSOCOMIAL INFECTION OUTBREAKS. — For purposes of reporting nosocomial infection outbreaks as required by department rule, the term "nosocomial infection outbreaks" shall mean infections as defined by the national Centers for Disease Control and Prevention within a defined time period. The time period shall be defined by the department based upon the number of infected patients in a facility.

197.158. COMPLAINT PROCEDURE TO BE PROVIDED TO PATIENTS. — Every hospital and ambulatory surgery center shall, beginning June 1, 2006, provide each patient an opportunity to submit to the hospital or ambulatory surgical center administration complaints, comments, and suggestions related to the care they received or their personal observations related to the quality of care provided. The department shall promulgate rules to implement this section.

197.160. INFECTION DATA TO BE AVAILABLE TO DEPARTMENT OF HEALTH AND SENIOR SERVICES, VIOLATION, EFFECT, STATE PAYMENTS SUSPENDED, WHEN. — The department of health and senior services shall have access to all data and information held by hospitals, ambulatory surgical centers, and other facilities related to their infection control practices, rates, or treatments of infections. Failure to provide such access shall be grounds for full or partial licensure suspension or revocation pursuant to section 197.293, sections 197.010 to 197.100, or sections 197.200 to 197.240. If the department determines that the hospital, ambulatory surgical center, or other facility is willfully impeding access to such information, the department shall be authorized to direct all state agencies to suspend all or a portion of state payments to such hospital until such time as the desired information is obtained by the department.

197.162. INFECTION CONTROL PRACTICES TO BE CONSIDERED IN LICENSURE PROCESS, ANNUAL REPORT REQUIRED. — The department shall in its licensure of hospitals and ambulatory surgical centers give special attention to infection control practices and shall direct hospitals and ambulatory surgical centers to set quantifiable measures of performance for reducing the incidence of nosocomial infections in Missouri. The department shall prepare an annual report on infection control standards and compliance, which shall be shared with the governor and the general assembly.

197.165. INFECTION CONTROL ADVISORY PANEL APPOINTED — MEMBERS — EXPENSES, FUND CREATED. — 1. The department shall appoint an "Infection Control Advisory Panel" for the purposes of implementing section 192.667 and 192.131, RSMo.

2. Members of the infection control advisory panel shall include:

- (1) Two public members;
 - (2) Three board-certified or board-eligible physicians licensed pursuant to chapter 334, RSMo, who are affiliated with a Missouri hospital or medical school, active members of the society for health care epidemiology of America, and have demonstrated interest and expertise in health facility infection control;
 - (3) One physician licensed pursuant to chapter 334, RSMo, who is active in the practice of medicine in Missouri and who holds medical staff privileges at a Missouri hospital;
 - (4) Four infection control practitioners certified by the certification board of infection control and epidemiology, at least two of whom shall be practicing in a rural hospital or setting and at least two of whom shall be registered professional nurses licensed under chapter 335, RSMo;
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(5) A medical statistician with an advanced degree in such specialty; and
(6) A clinical microbiologist with an advanced degree in such specialty;
(7) Three employees of the department, representing the functions of hospital and ambulatory surgical center licensure, epidemiology and health data analysis, who shall serve as ex officio nonvoting members of the panel.

3. Reasonable expenses of the panel shall be paid from private donations made specifically for that purpose to the "Infection Control Advisory Panel Fund", which is hereby created in the state treasury. If such donations are not received from private sources, then the provisions of this act shall be implemented without the advisory panel.

197.293. LICENSURE REGULATIONS, STANDARDS USED BY THE DEPARTMENT OF HEALTH AND SENIOR SERVICES FOR ENFORCEMENT. — 1. In addition to the powers established in sections 197.070 and 197.220, the department of health and senior services shall use the following standards for enforcing hospital and ambulatory surgical center licensure regulations promulgated to enforce the provisions of sections 197.010 to 197.120, **sections 197.150 to 197.165**, and sections 197.200 to 197.240:

(1) Upon notification of a deficiency in meeting regulatory standards, the hospital or ambulatory surgical center shall develop and implement a plan of correction approved by the department which includes, but is not limited to, the specific type of corrective action to be taken and an estimated time to complete such action;

(2) If the plan as implemented does not correct the deficiency, the department may either:

(a) Direct the hospital or ambulatory surgical center to develop and implement a plan of correction pursuant to subdivision (1) of this subsection; or

(b) Require the hospital or ambulatory surgical center to implement a plan of correction developed by the department;

(3) If there is a continuing deficiency after implementation of the plan of correction pursuant to subdivision (2) of this subsection and the hospital or ambulatory surgical center has had an opportunity to correct such deficiency, the department may restrict new inpatient admissions or outpatient entrants to the service or services affected by such deficiency;

(4) If there is a continuing deficiency after the department restricts new inpatient admissions or outpatient entrants to the service or services pursuant to subdivision (3) of this subsection and the hospital or ambulatory surgical center has had an opportunity to correct such deficiency, the department may suspend operations in all or part of the service or services affected by such deficiency;

(5) If there is a continuing deficiency after suspension of operations pursuant to subdivision (4) of this subsection, the department may deny, suspend or revoke the hospital's or ambulatory surgical center's license pursuant to section 197.070 or section 197.220.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, if a deficiency in meeting licensure standards presents an immediate and serious threat to the patients' health and safety, the department may, based on the scope and severity of the deficiency, restrict access to the service or services affected by the deficiency until the hospital or ambulatory surgical center has developed and implemented an approved plan of correction. Decisions as to whether a deficiency constitutes an immediate and serious threat to the patients' health and safety shall be made in accordance with guidelines established pursuant to regulation of the department of health and senior services and such decisions shall be approved by the bureau of health facility licensing in the department of health and senior services, or its successor agency, or by a person authorized by the regulations to approve such decisions in the absence of the director.

197.294. USE OF CERTAIN INFORMATION TO ESTABLISH STANDARDS OF CARE PROHIBITED IN PRIVATE CIVIL ACTIONS. — No information disclosed by the department to the public pursuant to sections 192.020, 192.021, 192.067, 192.131, 192.138, 192.665, and

192.667, RSMo, and sections 197.150, 197.152, 197.154, 197.156, 197.158, 197.160, 197.162, 197.165, and 197.293 shall be used to establish a standard of care in a private civil action.

Approved June 28, 2004

SB 1285 [SB 1285]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain fee offices to collect the statutory fees for processing motor vehicle transactions.

AN ACT to repeal section 136.055, RSMo, and to enact in lieu thereof one new section relating to motor vehicle fee offices.

SECTION

A. Enacting clause.

136.055. Agent to collect motor vehicle taxes and issue licenses — fees — sign required.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 136.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 136.055, to read as follows:

136.055. AGENT TO COLLECT MOTOR VEHICLE TAXES AND ISSUE LICENSES — FEES — SIGN REQUIRED. — 1. Any person who is selected or appointed by the state director of revenue to act as an agent of the department of revenue, whose duties shall be the sale of motor vehicle licenses and the collection of motor vehicle sales and use taxes under the provisions of section 144.440, RSMo, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer license sold, renewed or transferred — two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; and five dollars beginning August 28, 2002, for those licenses biennially renewed pursuant to section 301.147, RSMo. Beginning July 1, 2003, for each motor vehicle or trailer license sold, renewed or transferred — three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147, RSMo;

(2) For each application or transfer of title — two dollars and fifty cents beginning January 1, 1998;

(3) For each chauffeur's, operator's or driver's license — two dollars and fifty cents beginning January 1, 1998; and four dollars beginning July 1, 2000; and five dollars beginning July 1, 2003, for six-year licenses issued or renewed;

(4) For each notice of lien processed — two dollars and fifty cents beginning August 28, 2000;

(5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception — two dollars.

2. [This section shall not apply to agents appointed by the state director of revenue in any city, other than a city not within a county, where the department of revenue maintains an office.] All fees charged shall not exceed those in this section. Beginning July 1, 2003, the fees imposed by this section shall be collected by all permanent branch offices and all full-time or temporary offices maintained by the department of revenue.

3. Any person acting as agent of the department of revenue for the sale and issuance of licenses and other documents related to motor vehicles shall have an insurable interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

4. The fee increases authorized by this section and approved by the general assembly were requested by the fee agents. All fee agent offices shall display a three foot by four foot sign with black letters of at least three inches in height on a white background which states:

The increased fees approved by the
Missouri Legislature and charged by
this fee office were requested by the
fee agents.

Approved July 1, 2004

SB 1299 [HCS SB 1299]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to residential property insurance.

AN ACT to repeal sections 375.772, 375.773, 375.774, 375.775, 375.776, 375.778, 375.779, 379.110, 379.815, 379.825, 384.043, 384.062, and 384.065, RSMo, and to enact in lieu thereof thirteen new sections relating to residential property insurance.

SECTION

- A. Enacting clause.
- 375.772. Association, created — definitions.
- 375.773. Accounts, types of insurance — applicability of law.
- 375.774. Certificate of contribution, issued when, shown as asset by insurer, when — tax credit allowed to insurer, when — association exempt from taxes.
- 375.775. Association, powers and duties.
- 375.776. Board of directors, selection, terms — powers and duties.
- 375.778. Claims of insured, recovery, procedures — assignment of rights to association, when, extent of — stay of proceedings against insolvent insurer, when — records of insolvent insurer, access by board, when.
- 375.779. Immunity from liability, association and employees — unfair trade practice, using association protection as inducement to purchase policy.
- 379.110. Definitions.
- 379.815. Definitions.
- 379.825. Issuance of policy, when — appointment of liability assumed — expenses — limits on liability.
- 384.043. Licensing requirements for insurance producers, fee — bond — examination, exception — renewal, when, violation, effect.
- 384.062. Premium taxes collected by licensee but unpaid to director, actions authorized — taxes payable to director of revenue.
- 384.065. Revocation, suspension or refusal to renew license of licensee, grounds — notice — hearing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 375.772, 375.773, 375.774, 375.775, 375.776, 375.778, 375.779, 379.110, 379.815, 379.825, 384.043, 384.062, and 384.065, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 375.772, 375.773, 375.774, 375.775, 375.776, 375.778, 375.779, 379.110, 379.815, 379.825, 384.043, 384.062, and 384.065, to read as follows:

375.772. ASSOCIATION, CREATED — DEFINITIONS. — 1. There is created a nonprofit unincorporated legal entity to be known as the "Missouri Property and Casualty Insurance

Guaranty Association", hereinafter referred to as "association". All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under a plan of operation and through a board of directors established by section 375.776.

2. As used in sections 375.771 to 375.779, the following terms mean:

- (1) "Account", any one of the four accounts established by section 375.773;
- (2) **"Affiliate", a person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person;**
- (3) **"Affiliate of an insolvent insurer", a person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with an insolvent insurer on December thirty-first of the year immediately preceding the date the insurer becomes an insolvent insurer;**

(4) **"Association", the Missouri property and casualty insurance guaranty association;**

(5) **"Claimant", any insured making a first-party claim or any person instituting a liability claim, provided that no person who is an affiliate of the insolvent insurer may be a claimant;**

(6) **"Control", the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with the corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. Such presumption may be rebutted by a showing that control does not exist in fact;**

(7) **"Covered claim", an unpaid claim including those for unearned premiums, presented by a claimant within the time specified in accordance with subsection 1 and subdivision (2) of subsection 2 of section [375.670, and which arises] 375.775, and is for a loss arising out of and is within the coverage of an insurance policy to which sections 375.771 to 375.779 apply [issued by a member insurer, if such insurer becomes an insolvent insurer after September 28, 1971,] made by a person insured under such policy or by a person suffering injury or for which a person insured under such policy is legally liable, if:**

(a) **The policy is issued by a member insurer and such member insurer becomes an insolvent insurer after August 28, 2004; and**

(b) **The claimant or insured is a resident of this state at the time of the insured event[.]; or the claim is a first-party claim by an insured for damage to property and the property from which the claim arises is permanently located in this state[.] or in the case of an unearned premium, the policyholder is a resident of this state at the time the policy is issued. The residency of the claimant, insured, or policyholder, other than an individual, is the state in which its principal place of business is located at the time of the insured event;**

(c) **"Covered claim" shall not include:**

- a. Any amount awarded as punitive or exemplary damages, or which is a fine or penalty;**
- b. Any amount sought as a return of premium under any retrospective rating plan[.]; or**
- c. Any amount due any reinsurer, insurer, insurance pool, or underwriting association, health maintenance organization, hospital plan corporation, health services corporation, or self-insurer as subrogation recoveries, reinsurance recoveries, contribution, indemnity, or otherwise[, and]. To the extent of any amount due any reinsurer, insurer, insurance pool, or underwriting association, health maintenance organization, hospital plan corporation, health services corporation, or self-insurer as subrogation recoveries or otherwise there shall be no right of recovery by any person against a tortfeasor insured of an insolvent insurer, except that such limitation shall not apply with respect to those amounts that exceed the limits of the policy issued such tortfeasor by the insolvent insurer[. "Covered claim" shall not include];**

d. A claim by or against an insured of an insolvent insurer, if such insured has a net worth of more than twenty-five million dollars on the [date the insurer became an insolvent insurer] **later of the end of the insured's most recent fiscal year or the December thirty-first of the year next preceding the date the insurer becomes an insolvent insurer; provided that an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its affiliates as calculated on a consolidated basis;**

e. Any first-party claim by an insured which is an affiliate of the insolvent insurer;

f. Supplementary payment obligations incurred prior to the final order of liquidation, including but not limited to adjustment fees and expenses, fees for medical cost containment services, including but not limited to medical case management fees, attorney's fees and expenses, court costs, penalties, and bond premiums;

g. Any claims for interest;

h. Any amount that constitutes a portion of a covered claim that is within an insured's deductible or self-insured retention;

i. Any fee or other amount sought by or on behalf of an attorney or other provider of goods or services retained by an insured or claimant in connection with the assertion or prosecuting of any claim, covered or otherwise, against the association;

j. Any amount that constitutes a claim under a policy issued by an insolvent insurer with a deductible or self-insured retention of three hundred thousand dollars or more. However, such a claim shall be considered a covered claim, if, as of the deadline set forth for the filing of claims against the insolvent insurer or its liquidator, the insured is a debtor under 11 U.S.C. Section 701, et seq.;

k. Any amount to the extent that it is covered by any insurance that is available to the claimant or the insured, whether such other insurance is primary, pro rata, or excess. In all such instances, the association's obligations to the insured or claimant shall not be deemed to be other insurance;

[(3)] (8) "Insolvent insurer", an insurer licensed to transact insurance in this state, either at the time the policy was issued or when the insured event occurred, and against whom [an] **a final** order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction in the insurer's state of domicile or of this state under the provisions of sections 375.950 to 375.990 **or sections 375.1150 to 375.1246**, and which **such** order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order;

(9) **"Insured", any named insured, additional insured, vendor, lessor, or any other party identified as an insured under the policy;**

[(4)] (10) "Member insurer", any person who writes any kind of insurance to which sections 375.771 to 375.779 apply, including the exchange of reciprocal or interinsurance contracts, and possesses a certificate of authority to transact the business of insurance in this state issued by the director of the department of insurance [except an insurer which was insolvent on September 28, 1971]. Whether or not approved by the director of the department of insurance for the placing of lines of insurance by [brokers] **producers** so authorized under the provisions of chapter 384, RSMo, an insurance company not licensed to do business in this state shall not be a member insurer. Missouri mutual and extended Missouri mutual insurance companies doing business under chapter 380, RSMo, shall be considered member insurers for the purposes of sections 375.771 to 375.779, and a special account shall be established applicable only to such companies;

[(5)] (11) "Net direct written premiums", direct gross premiums written in this state on insurance policies to which sections 375.771 to 375.779 apply, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers;

[(6)] (12) "Net worth", the total assets of a person less the total liabilities against those assets. Where the person is one who prepares an annual report to shareholders such report for the fiscal year immediately preceding the date of insolvency of the insurance carrier shall be used

to determine net worth. If the person is one who does not prepare such an annual report, but does prepare an annual financial report for management which reflects net worth, then such report for the fiscal year immediately preceding the date of insolvency of the insurance carrier shall be used to determine net worth;

(13) **"Ocean marine insurance"**, includes marine insurance that insures against maritime perils or risks and other related perils or risks which are usually insured against by traditional marine insurance, such as hull and machinery, marine builders' risks, and marine protection and indemnity. Such perils and risks insured against include, without limitation, loss, damage, or expense or legal liability of the insured arising out of an incident related to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waters for commercial purposes, including liability of the insured for personal injury, illness, or death for loss or damage to the property of the insured or another person;

[(7)] (14) **"Person"**, any individual, corporation, partnership, association or voluntary organization, municipality, or political subdivision;

(15) **"Political subdivision"**, the same meaning as such term is defined in section 70.210, RSMo;

(16) **"Self-insurer"**, a person that covers its liability through a qualified individual or group self-insurance program or any other formal program created for the specific purpose of covering liabilities typically covered by insurance. Self-insurer does not include the Missouri Private Sector Individual Self-Insurers Guaranty Corporation created pursuant to section 287.860, et seq.

375.773. ACCOUNTS, TYPES OF INSURANCE — APPLICABILITY OF LAW. — 1. For purposes of administration and assessment, the association shall be divided into four separate accounts:

- (1) The workers' compensation insurance account;
- (2) The automobile insurance account;
- (3) The Missouri mutual and extended Missouri mutual insurance company account; and
- (4) The account for all other insurance to which sections 375.771 to 375.779 apply.

2. Sections 375.771 to 375.779 shall apply to all kinds of direct insurance[, except life, accident and sickness, title, surety, disability, credit, mortgage guaranty, ocean marine insurance, and assessment insurance written under the provisions of chapter 383, RSMo], **but shall not be applicable to the following:**

- (1) **Life, annuity, accident, and health or disability insurance;**
- (2) **Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risk;**
- (3) **Fidelity or surety bonds, or any other bonding obligations;**
- (4) **Credit insurance, vendors' single-interest insurance, or collateral protection insurance, or any similar insurance protecting the interest of a creditor arising out of a creditor-debtor transaction;**
- (5) **Insurance of warranties or service contracts, including insurance that provides for the repair, replacement, or service of goods or property, or indemnification for repair, replacement, or service for the operational or structural failure of the goods or property due to a defect in material, workmanship, or normal wear and tear, or provides reimbursement for the liability incurred by the issuers of agreements or service contracts that provide such benefits;**
- (6) **Title insurance;**
- (7) **Ocean marine insurance;**
- (8) **Any transaction or combination of transactions between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, which involves the transfer of investment or credit risk unaccompanied by the transfer of insurance risk;**

- (9) That portion of any insurance provided or guaranteed by any government; or
(10) Insurance written by a company formed and operating under sections 383.010 to 383.040, RSMo.

375.774. CERTIFICATE OF CONTRIBUTION, ISSUED WHEN, SHOWN AS ASSET BY INSURER, WHEN — TAX CREDIT ALLOWED TO INSURER, WHEN — ASSOCIATION EXEMPT FROM TAXES.

— 1. The association shall issue to each insurer paying an assessment under sections 375.771 to 375.779 a certificate of contribution, in appropriate form and terms as prescribed by the director, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue.

2. A certificate of contribution [issued before September 1, 1991.] may be shown by the insurer in its financial statements as an admitted asset for such amount and period of time, as follows:

- (1) One hundred percent for the calendar year of issuance;
- (2) Sixty-six and two-thirds percent for the first calendar year after the year of issuance;
- (3) Thirty-three and one-third percent for the second year after the year of issuance which shall be the last year each such certificate shall be carried as an asset[;
- (4) An insurer shall not show a certificate of contribution issued on and after September 1, 1991, in its financial statements as an admitted asset].

3. The insurer shall be entitled to a credit against the premium tax liability under sections 148.310 to 148.461, RSMo, for contributions paid to the association. This tax credit shall be taken over a period of the three successive tax years beginning after the year of contribution at the rate of thirty-three and one-third percent, per year, of the contribution paid to the association, and such credit shall not be subject to subsection 1 of section 375.916.

4. Any sums recovered by the association representing sums which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection 3 of this section shall be paid by the association to the director of revenue who shall handle such funds in the same manner as provided in section 148.380, RSMo.

5. The association shall be exempt from payment of all fees and all capitation or poll and excise taxes levied by this state or any of its political subdivisions and the real and personal property of the association is hereby declared to be property actually and regularly used exclusively for purposes purely charitable and not held for private or corporate profit within the meaning of subdivision (5) of section 137.100, RSMo 1986.

375.775. ASSOCIATION, POWERS AND DUTIES. — 1. The association shall[:

(1)] Be obligated to the extent of the covered claims existing prior to the date of a final order of liquidation or a judicial determination by a court of competent jurisdiction in the insurer's domiciliary state that an insolvent insurer exists and arising within thirty days from the date or at the time of the first such order or determination, or before the policy expiration date if less than thirty days after such date, or before or at the time the insured replaces the policy or causes its cancellation, if he does so within thirty days of such date[, but obligation shall include only that amount of each covered claim which is in excess of one hundred dollars and is less than three hundred thousand dollars, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy]. **Such obligation shall be satisfied by paying to the claimant an amount as follows:**

- (1) **The full amount of a covered claim for benefits under workers' compensation insurance coverage;**
- (2) **An amount not exceeding twenty-five thousand dollars per policy for a covered claim for the return of unearned premium;**
- (3) **An amount not exceeding three hundred thousand dollars per claim for all other covered claims.**

2. In no event shall the association be obligated to an insured or claimant in an amount in excess of the face amount or the limits of the policy from which a claim arises or be obligated for the payment of unearned premium in excess of the amount of [ten] **twenty-five** thousand dollars, or to an insured or claimant on any covered claim until it receives confirmation from the receiver or liquidator of an insolvent insurer that the claim is within the coverage of an applicable policy of the insolvent insurer, except that within the sole discretion of the association, if the association deems it has sufficient evidence from other sources, including any claim forms which may be propounded by the association, that the claim is within the coverage of an applicable policy of the insolvent insurer, it shall proceed to process the claim, pursuant to its statutory obligations, without such confirmation by the receiver or liquidator:

[a.] (1) All covered claims shall be filed with the association on the claim information form required by this paragraph no later than the final date first set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, except that if the time first set by the court for filing claims is one year or less from the date of insolvency, and an extension of the time to file claims is granted by the court, claims may be filed with the association no later than the new date set by the court or within one year of the date of insolvency, whichever first occurs. In no event shall the association be obligated on a claim filed after such date or on one not filed on the required form. A claim information form shall consist of a statement verified under oath by the claimant which includes all of the following:

[a.] (a) The particulars of the claim;

[b.] (b) A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to said claim;

[c.] (c) The name and address of the claimant and the attorney who represents the claimant, if any; and

[d.] (d) If the claimant is an insured, that the insured's net worth did not exceed twenty-five million dollars on the date the insurer became an insolvent insurer.

The association may require that a prescribed form be used and may require that other information and documents be included. A covered claim shall not include any claim not described in a timely filed claim information form even though the existence of the claim was not known to the claimant at the time a claim information form was filed;

[b.] (2) In the case of claims arising from a member insurer subject to a final order of liquidation issued on or after September 1, 2000, the provisions of [paragraph (a) of subdivision (1) of subsection 1] **subdivision (1) of subsection 2** of this section shall not apply and in lieu thereof, such claims shall be governed by this [paragraph] **subdivision**. All covered claims shall be filed with the association, liquidator or receiver [no later than the final date first set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer, except that if the time first set by the court for filing claims is one year or less from the date of the insolvency, and an extension of the time to file claims is granted by the court, claims may be filed no later than the new date set by the court or within one year of the date of insolvency, whichever first occurs]. **Notwithstanding any other provisions of sections 375.771 to 375.779, a covered claim shall not include a claim filed after the earlier of eighteen months after the date of the order of liquidation, or the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer.** The association may require [that the prescribed forms be used and may require] that other information and documents be included in confirming the existence of a covered claim or in determining eligibility of any claimant. Such information may include, but is not limited to:

[a.] (a) The particulars of the claim;

[b.] (b) A statement that the sum claimed is justly owing and that there is [not] **no** setoff, counterclaim, or defense to said claim;

[c.] (c) The name and address of the claimant and the attorney who represents the claimant, if any; and

[d.] (d) A verification under oath of such requested information.

In no event shall the association be obligated on a claim filed with the association, liquidator or receiver for protection afforded under the insured's policy for incurred but not reported losses. A covered claim shall not include any claim that is not filed prior to the final date for filing claims, even though the existence of the claims was not known to the claimant prior to such final date;

[(c)] **3.** In the case of claims arising from bodily injury, sickness or disease, the amount of any such award shall not exceed the claimant's reasonable expenses incurred for necessary medical, surgical, X-ray, dental services and comparable services for individuals who, in the exercise of their constitutional rights, rely on spiritual means alone for healing in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, including prosthetic devices and necessary ambulance, hospital, professional nursing, and any amounts lost or to be lost by reason of claimant's inability to work and earn wages or salary or their equivalent, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation policy. Such award may also include payments in fact made to others, not members of claimant's household, which were reasonably incurred to obtain from such other persons ordinary and necessary services for the production of income in lieu of those services the claimant would have performed for himself had he not been injured. Verdicts as respect only those civil actions as may be brought to recover damages as provided in this section shall specifically set out the sums applicable to each item in this section for which an award may be made[;].

4. In the case of claims arising from a member insurer subject to a final order of liquidation dated on or after August 31, 2004, the provisions of subsection 3 of this section shall not apply.

5. Notwithstanding any other provision of sections 375.771 to 375.779, except in the case of a claim for benefits under workers' compensation coverage, any obligation of the association to or on behalf of the insured and its affiliates on covered claims shall cease when ten million dollars has been paid in the aggregate by the association and any one or more associations similar to the association in any other state or states to or on behalf of such insured, its affiliates, and additional insureds on covered claims or allowed claims arising under the policy or policies of any one insolvent insurer.

6. If the association determines that there may be more than one claimant having a covered claim or allowed claim against the association, or any associations similar to the association in other states, under the policy or policies of any one solvent insurer, the association may establish a plan to allocate amounts payable by the association in such manner as the association in its discretion deems equitable.

[(2)] **7.** The association shall be deemed the insurer **only** to the extent of its obligations on the covered claims and to such extent, **subject to the limitations provided in sections 375.771 to 375.779**, shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent[;], **including but not limited to the right to pursue and retain salvage and subrogation recoverable on paid covered claim obligations.** The association shall not be deemed the insolvent insurer for any purpose relating to the issue of whether the association is amenable to the personal jurisdiction of the courts of any states. However, any obligation to defend an insured shall cease upon:

(1) The association's payment by settlement releasing the insured or on a judgment of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit; or

(2) The association's tender of such amount.

[(3)] **8.** The association shall allocate claims paid and expenses incurred among the four accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the association under [subdivision (1) of this] subsection **1 of this section** to an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations under subdivision [(6) of this subsection] **(3) of subsection 9 of this**

section, and other expenses authorized by sections 375.771 to 375.779. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the preceding calendar year of the kinds of insurance in the account. **Each member insurer's assessment may be rounded to the nearest ten dollars.** Each member insurer shall be notified of the assessment not later than thirty days before it is due. No member insurer may be assessed in any year on any account an amount greater than one percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association may defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or, in the discretion of any such company, credited against future assessments. No dividends shall be paid stockholders or policyholders of a member insurer so long as all or part of any assessment against such insurer remains deferred. Each member insurer may set off against any assessment, authorized payments made on covered claims and expenses incurred in the payment of such claims by the member insurer if they are chargeable to the account for which the assessment is made. Assessments made under sections 375.771 to 375.779 and section 375.916 shall not be subject to subsection 1 of section 375.916;

[(4)] 9. The association shall:

(1) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the director, but such designation may be declined by a member insurer;

[(5)] (2) Reimburse each servicing facility for obligations of the association paid by the facility and for actual expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this section;

[(6)] (3) Be subject to examination and regulation by the director. The board of directors shall submit, not later than March thirtieth of each year, a financial report for the preceding calendar year in a form approved by the director; and

[(7)] Be considered to have been designated commissioner pursuant to subsection 2 of section 375.670, and it shall proceed to investigate, hear, settle, and determine covered claims unless the claimant shall, within thirty days from the date the claim is presented, present a written demand that such claim be processed in the liquidation proceedings as a claim not covered by sections 375.771 to 375.779] **(4) Proceed to investigate, settle, and determine covered claims.**

[2.] 10. The association may:

(1) Appear in, defend and appeal any action on a claim brought against the association;

(2) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(3) **Act as a servicing facility for other similar entities created by similar laws in this state or other states;**

(4) Borrow funds necessary to effect the purposes of sections 375.771 to 375.779 in accord with the plan of operation;

[(4)] (5) Sue or be sued. **Such power to sue includes the power and right to intervene as a party before any court that has jurisdiction over an insolvent insurer as defined in section 375.772;**

[(5)] (6) Negotiate and become a party to such contracts as are necessary to carry out the purpose of sections 375.771 to 375.779;

[(6)] (7) Perform such other acts as are necessary or proper to effectuate the purpose of sections 375.771 to 375.779;

[(7)] (8) Refund to the member insurers in proportion to the contribution of each member insurer to that account that amount by which the assets of the account exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association in any account exceed the liabilities of that account as estimated by the board of directors for the coming year; and

[(8)] (9) Become a member of the National [Committee] **Conference** on Insurance Guaranty Funds.

375.776. BOARD OF DIRECTORS, SELECTION, TERMS — POWERS AND DUTIES. — 1. The board of directors, subject to the supervision of the director, shall:

(1) Establish a plan of operation whereby the duties of the association under section 375.775 will be performed;

(2) Establish procedures for handling assets of the association;

(3) Establish regular places and times for meetings of the board of directors;

(4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(5) Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the director within thirty days after the action or decision;

(6) Establish the procedures whereby selections for the board of directors will be submitted to the director; and

(7) Have and exercise such additional powers necessary or proper for the execution of the powers and duties of the association.

2. The plan of operation may provide that any or all powers and duties of the association, except those under [subdivision (3) of subsection 1 and subdivision (3) of subsection 2] **subsection 8 and subdivision (4) of subsection 10** of section 375.775, are delegated to a corporation, association, or organization which performs or will perform functions similar to those of this association, or its equivalent, in two or more states. Such a corporation, association or organization shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation under this section shall take effect only with the approval of both the board of directors and the director, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by sections 375.771 to 375.779.

3. The board of directors of the association shall consist of seven persons serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the director. Not less than four of the members shall represent domestic insurers. Vacancies on the board shall be filled for the remaining period of the term by appointment of the director. If no members are selected within sixty days, the director shall appoint the initial members of the board of directors.

4. Members of the board shall receive no remuneration.

5. To aid in the detection and prevention of insurer insolvencies:

(1) It shall be the duty of the board of directors, upon majority vote, to notify the director of any information indicating any member insurer may be insolvent or in a financial condition hazardous to the policyholders or the public;

(2) The board of directors may, upon majority vote, make reports and recommendations to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer. Such reports and recommendations shall not be considered public documents; and

(3) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report on the history and causes of such insolvency, based on the information available to the association, and submit such report to the director.

375.778. CLAIMS OF INSURED, RECOVERY, PROCEDURES — ASSIGNMENT OF RIGHTS TO ASSOCIATION, WHEN, EXTENT OF — STAY OF PROCEEDINGS AGAINST INSOLVENT INSURER, WHEN — RECORDS OF INSOLVENT INSURER, ACCESS BY BOARD, WHEN. — 1. Any person having a claim against [his] **an insurer, regardless of whether such insurer is a member insurer,** under any provision in [his] **an insurance policy, other than the policy of the insolvent insurer, which arises out of the same facts, injury, or loss that gave rise to the covered claim against the association and** which is also a covered claim shall [first] be required to **first** exhaust his **or her** right under such policy[. Any amount payable on a covered claim under sections 375.771 to 375.779 shall be reduced by the amount of such recovery under the claimant's insurance policy] **or policies of insurance. Such other policies of insurance shall include, but not be limited to, liability coverage, health and accident insurance, hospitalization and other medical expense coverage, health care coverage by a health maintenance organization or health services corporation, or any amount payable by or on behalf of a self-insured plan, workers' compensation benefits, disability insurance, uninsured motorist coverage, and underinsured motorist coverage. The association's obligation pursuant to subsection 1 of section 375.775 shall be reduced by the amount recovered or recoverable, whichever is greater under any such other insurance policy or policies. To the extent the association's obligation pursuant to subsection 1 of section 375.775 is reduced by the application of the section, the liability of the person insured by the insolvent insurer's policy for the claim shall be reduced in the same amount.**

2. Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall first seek recovery from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, from the association of the location of the property, and if it is a workers' compensation claim, from the association of the residence of the claimant. Any recovery under sections 375.771 to 375.779 shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

3. **Any person having a claim or legal right of recovery against any governmental insurance or guaranty program that is also a covered claim shall be required to exhaust first such rights under that program. Any amount payable on a covered claim by the association shall be reduced by the amount of recovery under the program.**

4. **The association shall have no duty to provide a separate defense at its cost to an insured of an insolvent insurer as to any issue arising out of the coverage of this section.**

5. (1) Any person recovering under sections 375.771 to 375.779 shall be deemed to have assigned his **or her** rights under the policy to the association to the extent of his **or her** recovery from the association. Every insured or claimant seeking the protection of sections 375.771 to 375.779 shall cooperate with the association to the same extent as such person would have been required to cooperate with the insolvent insurer.

(2) [Any person eligible to recover a covered claim under sections 375.771 to 375.779 shall have the right to assign such rights of recovery to the agent of the insolvent member insurer.

(3)] The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

[4. All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court in this state shall be stayed for sixty days from the date the insolvency is determined. In addition, the association, upon application to any court in which the insolvent insurer is a party

or is obligated to defend a party and upon showing that the association first received notice from the insured or claimant of such claim or lawsuit not more than twenty days prior to making the application, shall be granted a continuance of not less than sixty days from any trial setting.]

6. All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any court of this state shall, subject to waiver by the association in specific cases involving covered claims, be stayed until the last day fixed by the court for the filing of claims and such additional time thereafter as may be determined by the court from the date the insolvency is determined or an ancillary proceeding is instituted in the state, whichever is later, to permit proper defense by the association of all pending causes of action.

7. As to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the association, either on its own behalf or on behalf of such insured, may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend against such claim on the merits.

[5.] **8.** With respect to a subrogation claim arising out of payment for property damage caused by a tortfeasor insured by an insolvent insurer, the insurer making such payment shall not be entitled to any right of recovery against such tortfeasor in excess of the proceeds recovered from the assets of the insolvent insurer of such tortfeasor; provided that, such limitation shall not apply with respect to property damage in excess of the limits of liability of the policy issued such tortfeasor by the insolvent insurer.

[6.] **9.** The liquidator, receiver, or statutory receiver of an insolvent member insurer covered by sections 375.771 to 375.779 shall permit access by the board of directors of the association or its authorized representative to such of the insolvent insurer's records which are necessary for the board in carrying out its functions under sections 375.771 to 375.779 with regard to covered claims. In addition, the liquidator, receiver, or statutory receiver shall provide the board or its representatives with copies of such records upon the request by the board and at the expense of the board.

375.779. IMMUNITY FROM LIABILITY, ASSOCIATION AND EMPLOYEES— UNFAIR TRADE PRACTICE, USING ASSOCIATION PROTECTION AS INDUCEMENT TO PURCHASE POLICY. — 1. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer, the association or its agents [or], employees, **or any servicing agent acting at the direction of the association**, the board of directors **or any person serving as a representative of any director**, or the director **of the department of insurance** or [his] **the director's** representatives for any action taken by them in the performance of their powers and duties under sections 375.771 to 375.779.

2. It is an unfair trade practice for any insurer or [agent] **producer** to make use in any manner of the protection given policyholders by sections 375.771 to 375.779 as a reason for buying insurance from [him] **such insurer or producer**. If a policy exceeds the limitations of coverage under sections 375.771 to 375.779, the insurer shall prominently inscribe on an endorsement to the insurance contract the limitations of coverage provided by the guaranty association.

379.110. DEFINITIONS. — As used in sections 379.110 to 379.120 the following words and terms mean:

(1) "Insurer" [means], any insurance company, association or exchange authorized to issue policies of automobile insurance in the state of Missouri[.];

(2) "Nonpayment of premium" [means], failure of the named insured to discharge when due any of his **or her** obligations in connection with the payment of premiums on a policy, or

any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit[.];

(3) "Policy" [means], an automobile policy providing automobile liability coverage, uninsured motorists coverage, automobile medical payments coverage, or automobile physical damage coverage insuring a private passenger automobile owned by an individual or partnership which has been in effect for more than sixty days or has been renewed. "Policy" does not mean:

- (a) Any policy issued under an automobile assigned risk plan or automobile insurance plan;
- (b) Any policy insuring more than four motor vehicles;
- (c) Any policy covering the operation of a garage, automobile sales agency, repair shop, service station or public parking place;

(d) Any policy providing insurance only on an excess basis, or to any contract principally providing insurance to such named insured with respect to other than automobile hazards or losses even though such contract may incidentally provide insurance with respect to such motor vehicles[.];

(4) "Renewal" or "to renew" [means], the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, such renewal policy to provide types and limits of coverage at least equal to those contained in the policy being superseded, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage at least equal to those contained in the policy being extended; provided, however, that any policy with a policy period or term of less than [twelve] **six** months or any period with no fixed expiration date shall for the purpose of this section be considered as if written for successive policy periods or terms of [twelve] **six** months. **Nothing in this subdivision shall be construed as superseding the provisions of subsection 9 of section 375.918, RSMo, and the term "third anniversary date of the initial contract" as used in subsection 9 of section 375.918, RSMo, means three years after the date of the initial contract.**

379.815. DEFINITIONS.— As used in this section, the following terms mean:

(1) "All-industry placement facility" (hereinafter referred to as "the facility"), the organization formed by insurers to assist applicants in securing basic property insurance, to issue policies and to administer the program and the joint reinsurance association;

(2) "Basic property insurance", the coverage against direct loss to real and tangible personal property at a fixed location that is provided in the standard fire policy and extended coverage endorsement, including builders' risk, and such vandalism and malicious mischief [insurance] **endorsements**, and such other classes of insurance as may be added to the program with respect to the property by amendment as hereinafter provided. Basic property insurance does not include automobile risks or such types of manufacturing risks as the governing committee may exclude with the approval of the director. **Any contract, as defined in section 375.918, RSMo, of the facility shall be subject to the provisions of section 375.918, RSMo;**

(3) "Commercial", basic property insurance not included under the personal lines statistical plan;

(4) "Director", the director of the department of insurance of the state of Missouri;

(5) "Habitational", basic property insurance included under the personal lines statistical plan;

(6) "Inspection bureau", the rating bureau or other organization designated by the facility with the approval of the director to make inspections as required under the program and to perform such other duties as may be authorized by the facility;

(7) "Insurer", any insurance company, reciprocal or interinsurance exchange or other organization licensed and authorized by the director to write property insurance, including the property insurance components of multiperil policies, on a direct basis, in this state;

(8) "Person" includes any individual or group of individuals, corporation, partnership, or association, or any other organized group of persons;

(9) "Premiums written", gross direct premiums (excluding that portion of premium on risks ceded to the joint reinsurance association) charged during the second preceding calendar year with respect to property in this state on all policies of basic property insurance and the basic property insurance premium components of all multiperil policies, as computed by the facility, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits;

(10) "Property owner", with respect to any real, personal, or mixed real and personal property, means any person having an insurable interest in such property;

(11) "Secretary", the Secretary of the United States Department of Housing and Urban Development.

379.825. ISSUANCE OF POLICY, WHEN — APPOINTMENT OF LIABILITY ASSUMED — EXPENSES — LIMITS ON LIABILITY. — 1. The facility, upon receipt of an application for coverage and the corresponding inspection report from the inspection bureau, shall, after it finds that the property is eligible for insurance under this program, issue a policy.

2. The facility shall apportion the liability so assumed to the insurers in the manner hereinafter provided in section 379.835.

3. Assessments upon each insurer in the program for expenses in connection with program business shall be levied and assessed by the governing committee of the facility in the manner hereinafter provided in section 379.835, subject to such minimum assessment as shall be established by the governing committee.

4. Subject to the insurable value thereof, the maximum limits of liability which may be placed through this program are: on any habitational property at one location, [one] **two** hundred thousand dollars; and on any commercial property at one location, one million dollars. The facility will endeavor to assist in placement when the requested amount of insurance exceeds the maximum limit of liability available under this program. The word "location" as used herein means real and personal property consisting of and contained in a single building or consisting of and contained in contiguous buildings under one ownership.

384.043. LICENSING REQUIREMENTS FOR INSURANCE PRODUCERS, FEE — BOND — EXAMINATION, EXCEPTION — RENEWAL, WHEN, VIOLATION, EFFECT. — 1. No [agent or broker] **insurance producer** shall procure any contract of surplus lines insurance with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the director.

2. The director shall issue a surplus lines license to any qualified holder of a current resident or nonresident property and casualty **insurance producer** license but only when the licensee has:

- (1) Remitted the one hundred dollar initial fee to the director;
- (2) Submitted a completed license application on a form supplied by the director; **and**
- (3) Passed a qualifying examination approved by the director, except that all holders of a license prior to July 1, 1987, shall be deemed to have passed such an examination[]; and
- (4) Filed with the director, and maintains during the term of the license, in force and unimpaired, a bond in favor of this state in the penal sum of one hundred thousand dollars or in a sum equal to the tax liability for the previous tax year, whichever is smaller, aggregate liability, with corporate sureties approved by the director. The bond shall be conditioned that the surplus lines licensee will conduct business in accordance with the provisions of sections 384.011 to 384.071 and will promptly remit the taxes as provided by law. No bond shall be terminated unless at least thirty days' prior written notice is given to the licensee and director[].

3. Each surplus lines license shall be renewed annually on the anniversary date of issuance and continue in effect until refused, revoked or suspended by the director in accordance with section 384.065; except that if the annual renewal fee for the license is not paid on or before the anniversary date, the license terminates. The annual renewal fee is fifty dollars.

384.062. PREMIUM TAXES COLLECTED BY LICENSEE BUT UNPAID TO DIRECTOR, ACTIONS AUTHORIZED — TAXES PAYABLE TO DIRECTOR OF REVENUE. — 1. If the tax collectible by a surplus lines licensee under the provisions of sections 384.011 to 384.071 has been collected and is not paid within the time prescribed, the same shall be recoverable in a suit brought by the director against the surplus lines licensee [and the surety on the bond filed under section 384.043].

2. All taxes, penalties, and interest or delinquent taxes levied pursuant to this chapter shall be paid to the director, who shall obtain such taxes, penalties and interest by civil action against the insured or the surplus lines licensee [and his bond], and the director shall remit such taxes when collected to the director of revenue. All checks and drafts remitted for the payment of such taxes, penalties and interest shall be made payable to the director of revenue.

3. Taxes collected pursuant to this chapter are taxes collected by the director of revenue within the meaning of section 139.031, RSMo.

384.065. REVOCATION, SUSPENSION OR REFUSAL TO RENEW LICENSE OF LICENSEE, GROUNDS — NOTICE — HEARING. — The director may suspend, revoke, or refuse to renew the license of a surplus lines licensee after notice and hearing as provided under the applicable provisions of this state's laws upon any one or more of the following grounds:

- (1) Removal of the resident surplus lines licensee's office from this state;
- (2) Removal of the resident surplus lines licensee's office accounts and records from this state during the period during which such accounts and records are required to be maintained under section 384.059;
- (3) Closing of the surplus lines licensee's office for a period of more than thirty business days, unless permission is granted by the director;
- (4) Failure to make and file required reports;
- (5) Failure to transmit required tax on surplus lines premiums;
- (6) [Failure to maintain required bond;
- (7)] Violation of any provision of [this act] **sections 384.011 to 384.071**; or
- [(8)] (7) For any cause for which an insurance license could be denied, revoked, suspended or renewal refused under section 375.141, RSMo.

Approved July 1, 2004

SB 1302 [SB 1302]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the board of governors of Southwest Missouri State University to convey land.

AN ACT relating to authorizing the board of governors of Southwest Missouri State University to convey property in Springfield, with an emergency clause.

SECTION

1. Southwest Missouri State University authorized to convey land along South Scenic Avenue in the city of Springfield.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. SOUTHWEST MISSOURI STATE UNIVERSITY AUTHORIZED TO CONVEY LAND ALONG SOUTH SCENIC AVENUE IN THE CITY OF SPRINGFIELD. — 1. The board of governors of Southwest Missouri State University is hereby authorized and empowered

to sell, transfer, grant, and convey all interest in fee simple absolute in a tract of land owned by the state along South Scenic Avenue in Springfield, Missouri. The property to be conveyed is more particularly described as follows:

Beginning at the southwest corner of the northwest quarter of the southwest quarter (NW 1/4 SW 1/4) of Section 34, Township 29N, Range 22W, thence north 3,400 feet, thence East 650 feet, thence southwesterly to a point 200 feet east of the beginning point, thence west to the beginning, consisting of approximately 25 acres.

2. Consideration for the conveyance shall be as negotiated by the parties.

3. The Attorney General shall approve as to form the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because of the conditions of an agreement to acquire additional property, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved July 1, 2004

SB 1320 [SB 1320]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the bid process for depositaries of state institutions.

AN ACT to repeal sections 110.070 and 110.080, RSMo, and to enact in lieu thereof two new sections relating to bids for depositaries of public institutions.

SECTION

A. Enacting clause.

110.070. Bids for depositaries — publication of notice.

110.080. Bids for depositaries — guarantee — disclosure of bids a misdemeanor.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 110.070 and 110.080, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 110.070 and 110.080, to read as follows:

110.070. BIDS FOR DEPOSITARIES — PUBLICATION OF NOTICE. — 1. Subject to the provisions of section 110.030, all boards of managers, curators, trustees or other persons by whatever name called, who have the management of any state institution, that have the use or custody of any funds, on or before the first Monday of July [of each odd-numbered year] **for the year in which a bid is requested** shall receive sealed proposals from banking corporations, associations, or trust companies in any city, town or county in which the institutions are located which desire to be selected as depositaries of the moneys and funds of the institution. **The bids may be for a period of one to four years.**

2. Notice that bids will be received shall be published by the secretary of the board at least twenty days before the meeting at which the depositary is to be selected in some newspaper published in the city, town or county at least once in each week.

110.080. BIDS FOR DEPOSITARIES — GUARANTEE — DISCLOSURE OF BIDS A MISDEMEANOR. — 1. Any banking corporation, association or trust company in the city desiring to bid shall deliver to the secretary of the board on or before twelve o'clock noon on the day of the meeting at which the depository is to be selected a sealed bid stating the rate of interest that it offers to pay on the funds and moneys of the institution for the term of [two] **up to four** years next ensuing the date of the bid.

2. Each bid shall be accompanied by a check in favor of the institution on some solvent banking corporation, association, or trust company in the city, duly certified, for not less than one thousand dollars, as a guaranty of good faith on the part of the bidder that if its bid is accepted by the board it will give the security required by section 110.010.

3. It is a misdemeanor for the secretary of the board to directly or indirectly disclose the amount of any bid before the selection of the depository or depositories.

Approved July 2, 2004

SB 1329 [HCS SB 1329]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to the Warren County Emergency Services Board.

AN ACT to amend chapter 190, RSMo, by adding thereto four new sections relating to emergency services.

SECTION

- A. Enacting clause.
- 190.342. Definitions.
- 190.344. Emergency services, sales tax levy authorized — ballot language — rate of tax — termination of tax — board to administer funds established, members (Warren County).
- 190.346. Powers and duties of the emergency services board — meetings — vacancies — rulemaking authority (Warren County).
- 190.348. Board may borrow money and issue bonds — ballot language — duration of loans, rate of interest (Warren County).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 190, RSMo, is amended by adding thereto four new sections, to be known as sections 190.342, 190.344, 190.346, and 190.348, to read as follows:

190.342. DEFINITIONS. — As used in sections 190.342 to 190.348, the following terms shall mean:

- (1) "Emergency telephone service", a telephone system utilizing a single three digit number, "911", for reporting police, fire, medical, or other emergency situations;
 - (2) "Emergency services board" or "board", those persons appointed or elected pursuant to section 190.344;
 - (3) "Person", any individual, firm, partnership, copartnership, joint venture, association, cooperative organization, corporation, municipal or private, and whether organized for profit or not, state, county, political subdivision, state department, commission, board, bureau, or fraternal organization, estate, trust, business, or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy, or any other service user;
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(4) "Public agency", any city, county, city not within a county, municipal corporation, public district or public authority located in whole or in part within this state which provides or has authority to provide fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

190.344. EMERGENCY SERVICES, SALES TAX LEVY AUTHORIZED — BALLOT LANGUAGE — RATE OF TAX — TERMINATION OF TAX — BOARD TO ADMINISTER FUNDS ESTABLISHED, MEMBERS (WARREN COUNTY). — 1. In lieu of the tax levy authorized under section 190.305 for emergency telephone services, the county commission of any county may impose a county sales tax for the provision of central dispatching of fire protection, including law enforcement agencies, emergency ambulance service or any other emergency services, including emergency telephone services, which shall be collectively referred to herein as "emergency services", and which may also include the purchase and maintenance of communications and emergency equipment, including the operational costs associated therein, in accordance with the provisions of this section.

2. Such county commission may, by a majority vote of its members, submit to the voters of the county, at a public election, a proposal to authorize the county commission to impose a tax under the provisions of this section. If the residents of the county present a petition signed by a number of residents equal to ten percent of those in the county who voted in the most recent gubernatorial election, then the commission shall submit such a proposal to the voters of the county.

3. The ballot of submission shall be in substantially the following form:

Shall the county of (insert name of county) impose a county sales tax of (insert rate of percent) percent for the purpose of providing central dispatching of fire protection, emergency ambulance service, including emergency telephone services, and other emergency services?

☐ YES ☐ NO

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance shall be in effect as provided herein. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the county commission shall have no power to impose the tax authorized by this section unless and until the county commission shall again have submitted another proposal to authorize the county commission to impose the tax under the provisions of this section, and such proposal is approved by a majority of the qualified voters voting thereon.

4. The sales tax may be imposed at a rate not to exceed one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo. The sales tax shall not be collected prior to thirty-six months before operation of the central dispatching of emergency services.

5. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

6. Any tax imposed pursuant to section 190.305 shall terminate at the end of the tax year in which the tax imposed pursuant to this section for emergency services is certified by the board to be fully operational. Any revenues collected from the tax authorized under section 190.305 shall be credited for the purposes for which they were intended.

7. At least once each calendar year, the board, as established by subsection 11 of this section, shall establish a tax rate, not to exceed the amount authorized, that together with any surplus revenues carried forward will produce sufficient revenues to fund the expenditures authorized by this act. Amounts collected in excess of that necessary within a given year shall be carried forward to subsequent years. The board shall make its determination of such tax rate each year no later than September first and shall fix the

new rate which shall be collected as provided in this act. Immediately upon making its determination and fixing the rate, the board shall publish in its minutes the new rate, and it shall notify every retailer by mail of the new rate.

8. Immediately upon the affirmative vote of voters of such a county on the ballot proposal to establish a county sales tax pursuant to the provisions of this section, the county commission shall appoint the initial members of a board to administer the funds and oversee the provision of emergency services in the county. Beginning with the general election in 1994, all board members shall be elected according to this section and other applicable laws of this state. At the time of the appointment of the initial members of the board, the commission shall relinquish and no longer exercise the duties prescribed in this chapter with regard to the provision of emergency services and such duties shall be exercised by the board.

9. The initial board shall consist of seven members appointed without regard to political affiliation, three of whom shall be selected from, and who shall represent, the fire protection districts, ambulance districts, sheriff's department, municipalities, and any other emergency services. Four of the members of the board shall not be selected from or represent the fire protection district, ambulance districts, sheriff's department, municipalities, or any other emergency services. Any individual serving on the board on August 28, 2004, may continue to serve and seek reelection or reappointment to the board, notwithstanding any provisions of this subsection. This initial board shall serve until its successor board is duly elected and installed in office. The commission shall ensure geographic representation of the county by appointing no more than four members from each district of the county commission.

10. Beginning in 1994, three members shall be elected from each district of the county commission and one member shall be elected at large. The members of the board shall annually elect, from among their number, the chairman of the board. Of those first elected, four members from districts of the county commission shall be elected for terms of two years and two members from districts of the county commission and the member at large shall be elected for terms of four years. In 1996, and thereafter, all terms of office shall be four years.

11. When the board is organized, it shall be a body corporate and a political subdivision of the state and shall be known as the "..... Emergency Services Board".

12. This section shall only apply to any county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants.

190.346. POWERS AND DUTIES OF THE EMERGENCY SERVICES BOARD — MEETINGS — VACANCIES — RULEMAKING AUTHORITY (WARREN COUNTY). — 1. The powers and duties of the emergency services board shall include, but not be limited to:

- (1) Planning a 911 system and dispatching system;
 - (2) Coordinating and supervising the implementation, upgrading or maintenance of the system, including the establishment of equipment specifications and coding systems;
 - (3) Receiving money from any county sales tax authorized to be levied pursuant to section 190.344 and authorizing disbursements from such moneys collected;
 - (4) Hiring any staff necessary for the implementation, upgrade or operation of the system;
 - (5) Acquiring land in fee simple, rights in land and easements upon, over, or across land and leasehold interests in land and tangible and intangible personal property used or useful for the location, establishment, maintenance, development, expansion, extension, or improvement of the central dispatching of emergency services. The acquisition may be by dedication, purchase, gift, agreement, lease, use, or adverse possession;
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(6) Borrowing money and issuing bonds, notes, certificates, or other evidences of indebtedness for the purpose of accomplishing any of its corporate purposes, subject to compliance with any condition or limitation set forth in sections 190.342 to 190.348 or otherwise provided by the Constitution of Missouri;

(7) Suing and being sued, and to be party to suits, actions, and proceedings;

(8) Having and using a corporate seal;

(9) Entering into contracts, franchises, and agreements with any person, partnership, association, or corporation, public or private, affecting the affairs of the board;

(10) Having the management, control, and supervision of all the business affairs of the board and the construction, installation, operation, and maintenance of any improvements;

(11) Hiring and retaining agents and employees and providing for their compensation, including health and pension benefits;

(12) Adopting and amending bylaws and any other rules and regulations;

(13) Paying all expenses connected with the first election and all subsequent elections;

(14) Having and exercising all rights and powers necessary or incidental to or implied from the specific powers granted in this section. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of sections 190.342 to 190.348;

(15) Maintaining central dispatching of emergency services for the benefit of the inhabitants of the area comprising the district regardless of race, creed, or color, and to adopt such reasonable rules and regulations as may be necessary to render the highest quality of the central dispatching of emergency services; excluding from the use of the central dispatching of emergency services all persons who willfully disregard any of the rules and regulations so established; extending the privileges and use of the central dispatching of emergency services to persons residing outside the area of the district upon such terms and conditions as the board prescribes by its rules and regulations;

(16) Purchasing insurance indemnifying the district and its employees, officers, volunteers, and directors against liability in rendering services incidental to the furnishing of central dispatching of emergency services. Purchase of insurance pursuant to this section is not intended to waive sovereign immunity, official immunity, or the Missouri public duty doctrine defenses.

2. The administrative control and management of the moneys from any county sales tax authorized to be levied pursuant to section 190.344 and the administrative control and management of the central dispatching of emergency services shall rest solely with the board, and the board shall employ all necessary personnel, affix their compensation and provide suitable quarters and equipment for the operation of the central dispatching of emergency services from the funds available for this purpose.

3. The board may contract to provide services relating in whole or in part to central dispatching of emergency services and for such purpose may expend the tax funds or other funds.

4. The board shall elect a vice chairman, treasurer, secretary and such other officers as it deems necessary. Before taking office, the treasurer shall furnish a surety bond in an amount to be determined and in a form to be approved by the board for the faithful performance of the treasurer's duties and faithful accounting of all moneys that may come into the treasurer's hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors.

5. The board may accept any gift of property or money for the use and benefit of the central dispatching of emergency services, and the board is authorized to sell or exchange any such property which it believes would be to the benefit of the service so long as the proceeds are used exclusively for central dispatching of emergency services. The board

shall have exclusive control of all gifts, property or money it may accept; of all interest of other proceeds which may accrue from the investment of such gifts or money or from the sale of such property; of all tax revenues collected by the county on behalf of the central dispatching of emergency services; and of all other funds granted, appropriated or loaned to it by the federal government, the state or its political subdivisions so long as such resources are used solely to benefit the central dispatching of emergency services.

6. Any board member may, following notice and an opportunity to be heard, be removed from any office by a majority vote of the other members of the board for any of the following reasons:

- (1) Failure to attend five consecutive meetings, without good cause;
- (2) Conduct prejudicial to the good order and efficient operation of the central dispatching of emergency services; or
- (3) Neglect of duty.

7. The chairperson of the board shall preside at such removal hearing, unless the chairperson is the person sought to be removed, in which case the hearing shall be presided over by another member elected by a majority vote of the other board members. All interested parties may present testimony and arguments at such hearing, and the witnesses shall be sworn in by oath or affirmation before testifying. Any interested party may, at his or her own expense, record the proceedings.

8. Vacancies on the board occasioned by removals, resignations or otherwise, shall be filled by the remaining members of the board. The appointee or appointees shall act until the next election at which a director or directors are elected to serve the remainder of the unexpired term.

9. Individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board.

10. No person shall be employed by the board who is related within the fourth degree by blood or by marriage to any member of the board.

11. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 190.300 to 190.341 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

12. This section shall only apply to any county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants.

190.348. BOARD MAY BORROW MONEY AND ISSUE BONDS — BALLOT LANGUAGE — DURATION OF LOANS, RATE OF INTEREST (WARREN COUNTY). — 1. For the purpose of purchasing any property or equipment necessary or incidental to the operation of central dispatching of emergency services, the board may borrow money and issue bonds for the payment thereof in the manner provided herein. The question of the loan shall be decided by the submission of the question to the eligible voters of the county at the first municipal election held in a calendar year.

2. The question shall be submitted in substantially the following form:

"Shall the emergency services board borrow money in the amount of dollars for the purpose of and issue bonds for the payment thereof?"

3. If the constitutionally required percentage of the votes cast are for the loan, the board shall, subject to the restrictions of subsection 4 of this section, be vested with the power to borrow money in the name of the board, to the amount and for the purposes specified on the ballot, and issue the bonds of the board for the payment thereof.

4. The loans authorized by this section shall not be contracted for a period longer than twenty years, and the entire amount of the loan shall at no time exceed, including the existing indebtedness of the board, in the aggregate, ten percent of the value of taxable tangible property therein, as shown by the last completed assessment for state and county purposes, the rate of interest to be agreed upon by the parties, but in no case to exceed the highest legal rate allowed by contract; when effected, it shall be the duty of the directors to direct a portion of the tax collected pursuant to section 190.344 in an amount sufficient to pay the interest on the indebtedness as it falls due, and also to constitute a sinking fund for the payment of the principal thereof within the time the principal becomes due.

5. This section shall only apply to any county of the third classification without a township form of government and with more than twenty-four thousand five hundred but less than twenty-four thousand six hundred inhabitants.

Approved June 24, 2004

SB 1331 [SCS SB 1331]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Expands the definition of "municipality" for purposes of the Missouri Downtown and Rural Economic Stimulus Act.

AN ACT to repeal section 99.918, RSMo, and to enact in lieu thereof one new section relating to downtown and rural development.

SECTION

- A. Enacting clause.
- 99.918. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 99.918, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.918, to read as follows:

99.918. DEFINITIONS. — As used in sections 99.915 to 99.980, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Authority", the downtown economic stimulus authority for a municipality, created pursuant to section 99.921;

(2) "Baseline year", the calendar year prior to the adoption of an ordinance by the municipality approving a development project; provided, however, if economic activity taxes or state sales tax revenues, from businesses other than any out-of-state business or businesses locating in the development project area, decrease in the development project area in the year following the year in which the ordinance approving a development project is approved by a municipality, the baseline year may, at the option of the municipality approving the development project, be the year following the year of the adoption of the ordinance approving the development project. When a development project area is located within a county for which public and individual assistance has been requested by the governor pursuant to Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., for an emergency proclaimed by the governor pursuant to section 44.100, RSMo, due to a natural disaster of major proportions that occurred after May 1, 2003, but prior to May 10, 2003,

and the development project area is a central business district that sustained severe damage as a result of such natural disaster, as determined by the state emergency management agency, the baseline year may, at the option of the municipality approving the development project, be the calendar year in which the natural disaster occurred or the year following the year in which the natural disaster occurred, provided that the municipality adopts an ordinance approving the development project within one year after the occurrence of the natural disaster;

(3) "Blighted area", an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use;

(4) "Central business district", the area at or near the historic core that is locally known as the "downtown" of a municipality that has a median household income of sixty-two thousand dollars or less, according to the last decennial census. In addition, at least fifty percent of existing buildings in this area will have been built in excess of thirty-five years prior or vacant lots that had prior structures built in excess of thirty-five years prior to the adoption of the ordinance approving the redevelopment plan. The historical land use emphasis of a central business district prior to redevelopment will have been a mixed use of business, commercial, financial, transportation, government, and multifamily residential uses;

(5) "Collecting officer", the officer of the municipality responsible for receiving and processing payments in lieu of taxes, economic activity taxes other than economic activity taxes which are local sales taxes, and other local taxes other than local sales taxes, and, for local sales taxes and state taxes, the director of revenue;

(6) "Conservation area", any improved area within the boundaries of a redevelopment area located within the territorial limits of a municipality in which fifty percent or more of the structures in the area have an age of thirty-five years or more, and such an area is not yet a blighted area but is detrimental to the public health, safety, morals, or welfare and may become a blighted area because of any one or more of the following factors: dilapidation; obsolescence; deterioration; illegal use of individual structures; presence of structures below minimum code standards; abandonment; excessive vacancies; overcrowding of structures and community facilities; lack of ventilation, light or sanitary facilities; inadequate utilities; excessive land coverage; deleterious land use or layout; depreciation of physical maintenance; and lack of community planning;

(7) "Development area", an area designated by a municipality in respect to which the municipality has made a finding that there exist conditions which cause the area to be classified as a blighted area or a conservation area, which area shall have the following characteristics:

(a) It includes only those parcels of real property directly and substantially benefited by the proposed development plan;

(b) It can be renovated through one or more development projects;

(c) It is located in the central business district;

(d) It has generally suffered from declining population or property taxes for the twenty-year period immediately preceding the area's designation as a development area or has structures in the area fifty percent or more of which have an age of thirty-five years or more;

(e) It is contiguous, provided, however that a development area may include up to three noncontiguous areas selected for development projects, provided that each noncontiguous area meets the requirements of paragraphs (a) to (g) herein;

(f) The development area shall not exceed ten percent of the entire area of the municipality; and

(g) The development area shall not include any property that is located within the one hundred year flood plain, as designated by the Federal Emergency Management Agency flood

delineation maps, unless such property is protected by a structure that is inspected and certified by the United States Army Corps of Engineers.

Subject to the limitation set forth in this subdivision, the development area can be enlarged or modified as provided in section 99.951;

(8) "Development plan", the comprehensive program of a municipality to reduce or eliminate those conditions which qualified a development area as a blighted area or a conservation area, and to thereby enhance the tax bases of the taxing districts which extend into the development area through the reimbursement, payment, or other financing of development project costs in accordance with sections 99.915 to 99.980 and through the exercise of the powers set forth in sections 99.915 to 99.980. The development plan shall conform to the requirements of section 99.942;

(9) "Development project", any development project within a development area which constitutes a major initiative in furtherance of the objectives of the development plan, and any such development project shall include a legal description of the area selected for such development project;

(10) "Development project area", the area located within a development area selected for a development project;

(11) "Development project costs" include the such costs to the development plan or a development project, as applicable, which are expended on public property, buildings, or rights-of-ways for public purposes to provide infrastructure to support for a development project. Such costs shall only be allowed as an initial expense which, to be recoverable, must be included in the costs of a development plan or development project, except in circumstances of plan amendments approved by the Missouri development finance board and the department of economic development. Such infrastructure costs include, but are not limited to, the following:

- (a) Costs of studies, appraisals, surveys, plans, and specifications;
- (b) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning, or special services;
- (c) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;
- (d) Costs of rehabilitation, reconstruction, repair, or remodeling of existing public buildings and fixtures;
- (e) Costs of construction of public works or improvements;
- (f) Financing costs, including, but not limited to, all necessary expenses related to the issuance of obligations issued to finance all or any portion of the infrastructure costs of one or more development projects, and which may include capitalized interest on any such obligations and reasonable reserves related to any such obligations;
- (g) All or a portion of a taxing district's capital costs resulting from any development project necessarily incurred or to be incurred in furtherance of the objectives of the development plan, to the extent the municipality by written agreement accepts and approves such infrastructure costs;
- (h) Payments to taxing districts on a pro rata basis to partially reimburse taxes diverted by approval of a development project;
- (i) State government costs, including, but not limited to, the reasonable costs incurred by the department of economic development, the department of revenue and the office of administration in evaluating an application for and administering state supplemental downtown development financing for a development project; and
- (j) Endowment of positions at an institution of higher education which has a designation as a Carnegie Research I University including any campus of such university system, subject to the provisions of section 99.958.

In addition, economic activity taxes and payment in lieu of taxes may be expended on or used to reimburse any reasonable or necessary costs incurred or estimated to be incurred in furtherance of a development plan or a development project;

(12) "Economic activity taxes", the total additional revenue from taxes which are imposed by the municipality and other taxing districts, and which are generated by economic activities within each development project area, which are not related to the relocation of any out-of-state business into the development project area, which exceed the amount of such taxes generated by economic activities within such development project area in the baseline year plus, in development project areas where the baseline year is the year following the year in which the development project is approved by the municipality pursuant to subdivision (2) of this section, the total revenue from taxes which are imposed by the municipality and other taxing districts which is generated by economic activities within the development project area resulting from the relocation of an out-of-state business or out-of-state businesses to the development project area pursuant to section 99.919; but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees, or special assessments. If a retail establishment relocates within one year from one facility to another facility within the same county and the municipality or authority finds that the retail establishment is a direct beneficiary of development financing, then for purposes of this definition, the economic activity taxes generated by the retail establishment shall equal the total additional revenues from taxes which are imposed by the municipality and other taxing districts which are generated by the economic activities within the development project area which exceed the amount of taxes which are imposed by the municipality and other taxing districts which are generated by economic activities within the development project area generated by the retail establishment in the baseline year;

(13) "Gambling establishment", an excursion gambling boat as defined in section 313.800, RSMo, and any related business facility including any real property improvements which are directly and solely related to such business facility, whose sole purpose is to provide goods or services to an excursion gambling boat and whose majority ownership interest is held by a person licensed to conduct gambling games on an excursion gambling boat or licensed to operate an excursion gambling boat as provided in sections 313.800 to 313.850, RSMo;

(14) "Major initiative", a development project within a central business district that:

(a) Promotes tourism, cultural activities, arts, entertainment, education, research, arenas, multipurpose facilities, libraries, ports, mass transit, museums, or conventions, the estimated cost of which is in excess of the amount set forth below for the municipality, as applicable; or

(b) Promotes business location or expansion, the estimated cost of which is in excess of the amount set forth below for the municipality, and is estimated to create at least as many new jobs as set forth below within three years of such location or expansion:

Population of Municipality	Estimated Project Cost	New Jobs Created
300,000 or more	\$10,000,000	at least 100
100,000 to 299,999	\$ 5,000,000	at least 50
50,001 to 99,999	\$ 1,000,000	at least 10
50,000 or less	\$ 500,000	at least 5;

(15) "Municipality", any city, village, incorporated town, or any county of this state established on or prior to January 1, 2001, **or a census designated place in any county designated by the county for purposes of sections 99.915 to 99.1060;**

(16) "New job", any job defined as a new job pursuant to subdivision (10) of section 100.710, RSMo;

(17) "Obligations", bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the municipality or authority, or other public entity authorized to issue such obligations pursuant to sections 99.915 to 99.980 to carry out a development project or to refund outstanding obligations;

(18) "Ordinance", an ordinance enacted by the governing body of any municipality or an order of the governing body of such a municipal entity whose governing body is not authorized to enact ordinances;

(19) "Other net new revenues", the amount of state sales tax increment or state income tax increment or the combination of the amount of each such increment as determined under section 99.960;

(20) "Out-of-state business", a business entity or operation that has been located outside of the state of Missouri prior to the time it relocates to a development project area;

(21) "Payment in lieu of taxes", those revenues from real property in each development project area, which taxing districts would have received had the municipality not adopted a development plan and the municipality not adopted development financing, and which would result from levies made after the time of the adoption of development financing during the time the current equalized value of real property in such development project area exceeds the total equalized value of real property in such development project area during the baseline year until development financing for such development project area expires or is terminated pursuant to sections 99.915 to 99.980;

(22) "Special allocation fund", the fund of the municipality or its authority required to be established pursuant to section 99.957 which special allocation fund shall contain at least four separate segregated accounts into which payments in lieu of taxes are deposited in one account, economic activity taxes are deposited in a second account, other net new revenues are deposited in a third account, and other revenues, if any, received by the authority or the municipality for the purpose of implementing a development plan or a development project are deposited in a fourth account;

(23) "State income tax increment", up to fifty percent of the estimate of the income tax due the state for salaries or wages paid to new employees in new jobs at a business located in the development project area and created by the development project. The estimate shall be a percentage of the gross payroll which percentage shall be based upon an analysis by the department of revenue of the practical tax rate on gross payroll as a factor in overall taxable income;

(24) "State sales tax increment", up to one-half of the incremental increase in the state sales tax revenue in the development project area. In no event shall the incremental increase include any amounts attributable to retail sales unless the Missouri development finance board and the department of economic development are satisfied based on information provided by the municipality or authority, and such entities have made a finding that a substantial portion of all but a de minimus portion of the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase for an existing facility shall be the amount by which the state sales tax revenue generated at the facility exceeds the state sales tax revenue generated at the facility in the baseline year. The incremental increase in development project areas where the baseline year is the year following the year in which the development project is approved by the municipality pursuant to subdivision (2) of this section shall be the state sales tax revenue generated by out-of-state businesses relocating into a development project area. The incremental increase for a Missouri facility which relocates to a development project area shall be the amount by which the state sales tax revenue of the facility exceeds the state sales tax revenue for the facility in the calendar year prior to relocation;

(25) "State sales tax revenues", the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law;

(26) "Taxing districts", any political subdivision of this state having the power to levy taxes; and

(27) "Taxing district's capital costs", those costs of taxing districts for capital improvements that are found by the municipal governing bodies to be necessary and to directly result from a development project.

Approved July 2, 2004

SB 1365 [HCS SCS SB 1365]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Veterans' Historical Education Trust Fund and encourages the development of other veterans' programs.

AN ACT to amend chapter 42, RSMo, by adding thereto two new sections relating to veterans.

SECTION

- A. Enacting clause.
- 42.014. Development of veterans' programs encouraged — rulemaking authority — sunset provision.
- 42.015. Veterans' Historical Education Trust Fund established — deposit and investment of funds — use of funds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 42, RSMo, is amended by adding thereto two new sections, to be known as sections 42.014 and 42.015, to read as follows:

42.014. DEVELOPMENT OF VETERANS' PROGRAMS ENCOURAGED — RULEMAKING AUTHORITY — SUNSET PROVISION. — **1.** The Missouri general assembly shall, through appropriations as provided by law, encourage the development of any veterans' programs approved by the executive director of the veterans' commission whereby the historical significance of veteran service can be dedicated to outreach and education inside public schools, veteran cemeteries, veteran homes, and other institutions as determined by rule and regulation.

2. The executive director of the veterans' commission shall administer the provisions of this section and may adopt all rules and regulations necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

3. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

42.015. VETERANS' HISTORICAL EDUCATION TRUST FUND ESTABLISHED — DEPOSIT AND INVESTMENT OF FUNDS — USE OF FUNDS. — **1.** In order to contribute to the preservation of freedom, there is established in the state treasury a special trust fund, to be known as the "Veterans' Historical Education Trust Fund". The fund shall be administered by the commission for the sole purpose of financing veterans' outreach and education programs established in section 42.014.

2. The director of revenue shall deposit in the treasury to the credit of the veterans' historical education trust fund all amounts received by or designated to the fund established pursuant to this section and any other amounts which may be received from grants, gifts, bequests, appropriations, the federal government, or other sources granted or given for this specific purpose. The state treasurer shall invest moneys in the veterans' historical education trust fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the veterans' historical education trust fund shall be credited to the veterans' historical education trust fund.

3. As established by this section, funds appropriated by the general assembly from the veterans' historical education trust fund shall only be used by the commission for purposes authorized pursuant to section 42.014 and shall not be used to supplant any existing program or service.

4. The provisions of section 33.080, RSMo, requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the general revenue fund of this state at the end of each biennium shall not apply to the veterans' historical education trust fund.

Approved July 2, 2004

SB 1394 [CCS HS HCS SB 1394]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to taxation.

AN ACT to repeal sections 32.087, 64.930, 94.270, 100.710, 135.750, 137.101, 137.115, 137.298, 137.505, 143.081, 143.121, 143.241, 143.431, 143.782, 144.025, 144.083, 144.157, and 301.025, RSMo, section 100.850, RSMo, as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 289, ninety-second general assembly, first regular session, and section 100.850, RSMo, as enacted by senate committee substitute for senate bill no. 620, ninety-second general assembly, first regular session, and to enact in lieu thereof twenty-two new sections relating to taxation, with an effective date for certain sections.

SECTION

A. Enacting clause.

- 32.087. Local sales taxes, procedures and duties of director of revenue, generally — effective date of tax — duty of retailers and director of revenue — exemptions — discounts allowed — penalties — motor vehicle and boat sales, mobile telecommunications services — bond required — annual report of director, contents — delinquent payments — reapproval, effect, procedures.
- 64.930. Sports complex commissioners — terms — vacancies — compensation and expenses.
- 94.270. Power to license, tax and regulate certain businesses and occupations — prohibition on local license fees in excess of certain amounts in certain cities (Edmundson, Woodson Terrace).
- 94.839. Tourism tax on transient guests in hotels and motels (Salem).
- 94.902. Sales tax authorized for certain cities (Gladstone) — ballot, effective date — administration and collection — refunds, use of funds upon establishment of tax — repeal.
- 100.710. Definitions.
- 100.850. Assessments remittal, job development assessment fee — company records available to board, when — when remitted assessment ceases — tax credit amount, cap, claiming credit — refunds.
- 100.850. Assessments remittal, job development assessment fee — company records available to board, when — when remitted assessment ceases — tax credit amount, cap, claiming credit — refunds.
- 135.750. Tax credit for qualified film production projects — application — cap — transfer of credits.

- 137.078. Depreciation schedules for television broadcasting equipment, definitions — true value in money, how determined — tables.
- 137.101. Charitable organizations, exemption from property taxes — assessor's duties.
- 137.115. Real and personal property, assessment — maintenance plan — assessor may mail forms for personal property — classes of property, assessment — physical inspection required, when, procedure.
- 137.298. Cities may pass ordinance to include charges for outstanding parking tickets on personal property tax bill — personal property tax receipt, issued when — cities may enter into agreements with county to include outstanding vehicle-related fees and fines on personal property tax bill.
- 137.505. Failure to file return — duty of assessor.
- 143.081. Credit for income tax paid to another state.
- 143.121. Missouri adjusted gross income.
- 143.241. Employer's and corporate officer's liability for withheld taxes — sale of business, liabilities.
- 143.431. Missouri taxable income and tax.
- 143.782. Definitions.
- 144.025. Transactions involving trade-in or rebate, how computed — exceptions — definitions — agricultural use, allowance.
- 144.083. Retail sales license required for all collectors of tax — prerequisite to issuance of city or county occupation license — prerequisite for sales at retail.
- 144.157. Violations in collecting, penalty.
- 301.025. Personal property taxes and federal heavy vehicle use tax, paid when — tax receipt forms — failure to pay personal property tax, effect of, notification requirements, reinstatement fee, appeals — rulemaking, procedure.
- B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.087, 64.930, 94.270, 100.710, 135.750, 137.101, 137.115, 137.298, 137.505, 143.081, 143.121, 143.241, 143.431, 143.782, 144.025, 144.083, 144.157, and 301.025, RSMo, section 100.850, RSMo, as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 289, ninety-second general assembly, first regular session, and section 100.850, RSMo, as enacted by senate committee substitute for senate bill no. 620, ninety-second general assembly, first regular session, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 32.087, 64.930, 94.270, 94.839, 94.902, 100.710, 100.850, 135.750, 137.078, 137.101, 137.115, 137.298, 137.505, 143.081, 143.121, 143.241, 143.431, 143.782, 144.025, 144.083, 144.157, and 301.025, to read as follows:

32.087. LOCAL SALES TAXES, PROCEDURES AND DUTIES OF DIRECTOR OF REVENUE, GENERALLY — EFFECTIVE DATE OF TAX — DUTY OF RETAILERS AND DIRECTOR OF REVENUE — EXEMPTIONS — DISCOUNTS ALLOWED — PENALTIES — MOTOR VEHICLE AND BOAT SALES, MOBILE TELECOMMUNICATIONS SERVICES — BOND REQUIRED — ANNUAL REPORT OF DIRECTOR, CONTENTS — DELINQUENT PAYMENTS — REAPPROVAL, EFFECT, PROCEDURES. — 1. Within ten days after the adoption of any ordinance or order in favor of adoption of any local sales tax authorized under the local sales tax law by the voters of a taxing entity, the governing body or official of such taxing entity shall forward to the director of revenue by United States registered mail or certified mail a certified copy of the ordinance or order. The ordinance or order shall reflect the effective date thereof.

2. Any local sales tax so adopted shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of adoption of the local sales tax, except as provided in subsection 18 of this section.

3. Every retailer within the jurisdiction of one or more taxing entities which has imposed one or more local sales taxes under the local sales tax law shall add all taxes so imposed along with the tax imposed by the sales tax law of the state of Missouri to the sale price and, when added, the combined tax shall constitute a part of the price, and shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. The combined rate of the state sales tax and all local sales taxes shall be the sum of the rates, multiplying the combined rate times the amount of the sale.

4. The brackets required to be established by the director of revenue under the provisions of section 144.285, RSMo, shall be based upon the sum of the combined rate of the state sales tax and all local sales taxes imposed under the provisions of the local sales tax law.

5. The ordinance or order imposing a local sales tax under the local sales tax law shall impose upon all sellers a tax for the privilege of engaging in the business of selling tangible personal property or rendering taxable services at retail to the extent and in the manner provided in sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue issued pursuant thereto; except that the rate of the tax shall be the sum of the combined rate of the state sales tax or state highway use tax and all local sales taxes imposed under the provisions of the local sales tax law.

6. On and after the effective date of any local sales tax imposed under the provisions of the local sales tax law, the director of revenue shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the director of revenue shall collect in addition to the sales tax for the state of Missouri all additional local sales taxes authorized under the authority of the local sales tax law. All local sales taxes imposed under the local sales tax law together with all taxes imposed under the sales tax law of the state of Missouri shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the director of revenue.

7. All applicable provisions contained in sections 144.010 to 144.525, RSMo, governing the state sales tax and section 32.057, the uniform confidentiality provision, shall apply to the collection of any local sales tax imposed under the local sales tax law except as modified by the local sales tax law.

8. All exemptions granted to agencies of government, organizations, persons and to the sale of certain articles and items of tangible personal property and taxable services under the provisions of sections 144.010 to 144.525, RSMo, as these sections now read and as they may hereafter be amended, it being the intent of this general assembly to ensure that the same sales tax exemptions granted from the state sales tax law also be granted under the local sales tax law, are hereby made applicable to the imposition and collection of all local sales taxes imposed under the local sales tax law.

9. The same sales tax permit, exemption certificate and retail certificate required by sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax shall satisfy the requirements of the local sales tax law, and no additional permit or exemption certificate or retail certificate shall be required; except that the director of revenue may prescribe a form of exemption certificate for an exemption from any local sales tax imposed by the local sales tax law.

10. All discounts allowed the retailer under the provisions of the state sales tax law for the collection of and for payment of taxes under the provisions of the state sales tax law are hereby allowed and made applicable to any local sales tax collected under the provisions of the local sales tax law.

11. The penalties provided in section 32.057 and sections 144.010 to 144.525, RSMo, for a violation of the provisions of those sections are hereby made applicable to violations of the provisions of the local sales tax law.

12. (1) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales, except the sale of motor vehicles, trailers, boats, and outboard motors, shall be deemed to be consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination. In the event a retailer has more than one place of business in this state which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's agent or employee shall be deemed to be consummated at the place of business from which he works.

(2) For the purposes of any local sales tax imposed by an ordinance or order under the local sales tax law, all sales of motor vehicles, trailers, boats, and outboard motors shall be deemed to be consummated at the residence of the purchaser and not at the place of business of the retailer, or the place of business from which the retailer's agent or employee works.

(3) For the purposes of any local tax imposed by an ordinance or under the local sales tax law on charges for mobile telecommunications services, all taxes of mobile telecommunications service shall be imposed as provided in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as amended.

13. Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not be collected and remitted by the seller, but shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.

14. The director of revenue and any of his deputies, assistants and employees who have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the director of revenue under the provisions of the local sales tax law shall enter a surety bond or bonds payable to any and all taxing entities in whose behalf such funds have been collected under the local sales tax law in the amount of one hundred thousand dollars for each such tax; but the director of revenue may enter into a blanket bond covering himself and all such deputies, assistants and employees. The cost of any premium for such bonds shall be paid by the director of revenue from the share of the collections under the sales tax law retained by the director of revenue for the benefit of the state.

15. The director of revenue shall annually report on his management of each trust fund which is created under the local sales tax law and administration of each local sales tax imposed under the local sales tax law. He shall provide each taxing entity imposing one or more local sales taxes authorized by the local sales tax law with a detailed accounting of the source of all funds received by him for the taxing entity. Notwithstanding any other provisions of law, the state auditor shall annually audit each trust fund. A copy of the director's report and annual audit shall be forwarded to each taxing entity imposing one or more local sales taxes.

16. Within the boundaries of any taxing entity where one or more local sales taxes have been imposed, if any person is delinquent in the payment of the amount required to be paid by him under the local sales tax law or in the event a determination has been made against him for taxes and penalty under the local sales tax law, the limitation for bringing suit for the collection of the delinquent tax and penalty shall be the same as that provided in sections 144.010 to 144.525, RSMo. Where the director of revenue has determined that suit must be filed against any person for the collection of delinquent taxes due the state under the state sales tax law, and where such person is also delinquent in payment of taxes under the local sales tax law, the director of revenue shall notify the taxing entity [to which delinquent taxes are due under the local sales tax law by United States registered mail or certified mail at least ten days before turning the case over to the attorney general. The taxing entity, acting through its attorney, may join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such taxing entity.] in the event any person fails or refuses to pay the amount of any local sales tax due[, the director of revenue shall promptly notify the taxing entity to which the tax would be due] so that appropriate action may be taken by the taxing entity.

17. Where property is seized by the director of revenue under the provisions of any law authorizing seizure of the property of a taxpayer who is delinquent in payment of the tax imposed by the state sales tax law, and where such taxpayer is also delinquent in payment of any tax imposed by the local sales tax law, the director of revenue shall permit the taxing entity to join in any sale of property to pay the delinquent taxes and penalties due the state and to the taxing entity under the local sales tax law. The proceeds from such sale shall first be applied to

all sums due the state, and the remainder, if any, shall be applied to all sums due such taxing entity.

18. If a local sales tax has been in effect for at least one year under the provisions of the local sales tax law and voters approve reimposition of the same local sales tax at the same rate at an election as provided for in the local sales tax law prior to the date such tax is due to expire, the tax so reimposed shall become effective the first day of the first calendar quarter after the director receives a certified copy of the ordinance, order or resolution accompanied by a map clearly showing the boundaries thereof and the results of such election, provided that such ordinance, order or resolution and all necessary accompanying materials are received by the director at least thirty days prior to the expiration of such tax. Any administrative cost or expense incurred by the state as a result of the provisions of this subsection shall be paid by the city or county reimposing such tax.

64.930. SPORTS COMPLEX COMMISSIONERS — TERMS — VACANCIES — COMPENSATION AND EXPENSES. — 1. The county sports complex authority shall consist of five commissioners who shall be qualified voters of the state of Missouri, and residents of such county. The commissioners of the county commission by a majority vote thereof shall submit a panel of nine names to the governor who shall select with the advice and consent of the senate five commissioners from such panel, no more than three of which shall be of any one political party, who shall constitute the members of such authority; provided, however, that no elective or appointed official of any political subdivision of the state of Missouri shall be a member of the county sports complex authority.

2. The authority shall elect from its number a chairman and may appoint such officers and employees as it may require for the performance of its duties and fix and determine their qualifications, duties and compensation. No action of the authority shall be binding unless taken at a meeting at which at least three members are present and unless a majority of the members present at such meeting shall vote in favor thereof.

3. Such sports complex commissioners shall serve in the following manner: One for two years, one for three years, one for four years, one for five years, and one for six years. Successors shall hold office for terms of five years, or for the unexpired terms of their predecessors. [Each sports complex commissioner shall hold office until his successor has been appointed and qualified.]

4. In the event a vacancy exists a new panel of three names shall be submitted by majority vote of the county commission to the governor for appointment. All such vacancies shall be filled within thirty days from the date thereof. **If the county commission has not submitted a panel of three names to the governor within thirty days of the expiration of a commissioner's term, the governor shall immediately make an appointment to the commission with the advice and consent of the senate. In the event the governor does not appoint a replacement, no commissioner shall continue to serve beyond the expiration of that commissioner's term.**

5. The compensation of the sports complex commissioners to be paid by the authority shall be determined by the sports complex commissioners, but in no event shall exceed the sum of three thousand dollars per annum. In addition, the sports complex commissioners shall be reimbursed by the authority for the actual and necessary expenses incurred in the performance of their duties. **No commissioner shall continue to serve beyond the expiration of that commissioner's term.**

94.270. POWER TO LICENSE, TAX AND REGULATE CERTAIN BUSINESSES AND OCCUPATIONS — PROHIBITION ON LOCAL LICENSE FEES IN EXCESS OF CERTAIN AMOUNTS IN CERTAIN CITIES (EDMUNDSON, WOODSON TERRACE). — 1. The mayor and board of aldermen shall have power and authority to regulate and to license and to levy and collect a license tax on auctioneers, druggists, hawkers, peddlers, banks, brokers, pawnbrokers, merchants

of all kinds, grocers, confectioners, restaurants, butchers, taverns, hotels, public boardinghouses, billiard and pool tables and other tables, bowling alleys, lumber dealers, real estate agents, loan companies, loan agents, public buildings, public halls, opera houses, concerts, photographers, bill posters, artists, agents, porters, public lecturers, public meetings, circuses and shows, for parades and exhibitions, moving picture shows, horse or cattle dealers, patent right dealers, stockyards, inspectors, gaugers, mercantile agents, gas companies, insurance companies, insurance agents, express companies, and express agents, telegraph companies, light, power and water companies, telephone companies, manufacturing and other corporations or institutions, automobile agencies, and dealers, public garages, automobile repair shops or both combined, dealers in automobile accessories, gasoline filling stations, soft drink stands, ice cream stands, ice cream and soft drink stands combined, soda fountains, street railroad cars, omnibuses, drays, transfer and all other vehicles, traveling and auction stores, plumbers, and all other business, trades and avocations whatsoever, and fix the rate of carriage of persons, drayage and cartage of property; and to license, tax, regulate and suppress ordinaries, money brokers, money changers, intelligence and employment offices and agencies, public masquerades, balls, street exhibitions, dance houses, fortune tellers, pistol galleries, corn doctors, private venereal hospitals, museums, menageries, equestrian performances, horoscopic views, telescopic views, lung testers, muscle developers, magnifying glasses, ten pin alleys, ball alleys, billiard tables, pool tables and other tables, theatrical or other exhibitions, boxing and sparring exhibitions, shows and amusements, tipping houses, and sales of unclaimed goods by express companies or common carriers, auto wrecking shops and junk dealers; to license, tax and regulate hackmen, draymen, omnibus drivers, porters and all others pursuing like occupations, with or without vehicles, and to prescribe their compensation; and to regulate, license and restrain runners for steamboats, cars, and public houses; and to license ferries, and to regulate the same and the landing thereof within the limits of the city, and to license and tax auto liveries, auto drays and jitneys.

2. Notwithstanding any other law to the contrary, no city of the fourth classification with more than eight hundred but less than nine hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of twenty-seven dollars per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitation of this subsection shall be automatically reduced to comply with this subsection.

3. Notwithstanding any other law to the contrary, no city of the fourth classification with more than four thousand one hundred but less than four thousand two hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants shall levy or collect a license fee on hotels or motels in an amount in excess of thirteen dollars and fifty cents per room per year. No hotel or motel in such city shall be required to pay a license fee in excess of such amount, and any license fee in such city that exceeds the limitation of this subsection shall be automatically reduced to comply with this subsection.

94.839. TOURISM TAX ON TRANSIENT GUESTS IN HOTELS AND MOTELS (SALEM). — 1. The governing body of any city of the fourth classification with more than four thousand eight hundred but less than four thousand nine hundred inhabitants and located in any county of the third classification without a township form of government and with more than fourteen thousand nine hundred but less than fifteen thousand inhabitants may impose, by order or ordinance, a tax on the charges for all sleeping rooms paid by the transient guests of hotels or motels situated in the city or a portion thereof. The tax shall be not more than five percent per occupied room per night, and shall be imposed solely for the purpose of promoting tourism. The order or ordinance shall not become effective unless the governing body of the city submits to the voters of the city at a state general or primary election a proposal to authorize the governing body of the city to impose a tax

under this section. The tax authorized in this section shall be in addition to the charge for the sleeping room and all other taxes imposed by law, and shall be stated separately from all other charges and taxes.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city) impose a tax on the charges for all sleeping rooms paid by the transient guests of hotels and motels situated in (name of city) at a rate of (insert rate of percent) percent, solely for the purpose of promoting tourism?

☐ YES ☐ NO

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. Any tax imposed under this section shall be administered, collected, enforced, and operated by the governing body of the city adopting the tax. All revenue generated by the tax shall be deposited in a special trust fund and shall be used solely for the designated purposes. If the tax is repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures may be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The governing body of any city that has adopted the tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the tax imposed at a rate of (insert rate of percent) percent for the purpose of promoting tourism?

☐ YES ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

5. Whenever the governing body of any city that has adopted the tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

6. As used in this section, "transient guests" means a person or persons who occupy a room or rooms in a hotel or motel for thirty-one days or less during any calendar quarter.

94.902. SALES TAX AUTHORIZED FOR CERTAIN CITIES (GLADSTONE) — BALLOT, EFFECTIVE DATE — ADMINISTRATION AND COLLECTION — REFUNDS, USE OF FUNDS UPON ESTABLISHMENT OF TAX — REPEAL. — 1. The governing body of any city of the third classification with more than twenty-six thousand three hundred but less than twenty-six thousand seven hundred inhabitants may impose, by order or ordinance, a sales tax on all retail sales made in the city which are subject to taxation under chapter 144, RSMo. The tax authorized in this section may be imposed in an amount of up to one-half of one percent, and shall be imposed solely for the purpose of improving the public safety for such city, including but not limited to expenditures on equipment, city employee salaries and benefits, and facilities for police, fire and emergency medical providers. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance imposing a sales tax under this section shall not become effective unless the governing body of the city submits to the voters residing within the city, at a county or state general, primary, or special election, a proposal to authorize the governing body of the city to impose a tax under this section.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall the city of (city's name) impose a citywide sales tax at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

☐ YES ☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments to the order or ordinance shall become effective on the first day of the second calendar quarter after the director of revenue receives notice of the adoption of the sales tax. If a majority of the votes cast on the proposal by the qualified voters voting thereon are opposed to the proposal, then the tax shall not become effective unless the proposal is resubmitted under this section to the qualified voters and such proposal is approved by a majority of the qualified voters voting on the proposal. However, in no event shall a proposal under this section be submitted to the voters sooner than twelve months from the date of the last proposal under this section.

3. Any sales tax imposed under this section shall be administered, collected, enforced, and operated as required in section 32.087, RSMo. All sales taxes collected by the director of the department of revenue under this section on behalf of any city, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created in the state treasury, to be known as the "City Public Safety Sales Tax Trust Fund". The moneys in the trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of the general revenue fund. The director shall keep accurate records of the amount of money in the trust and which was collected in each city imposing a sales tax under this section, and the records shall be open to the inspection of officers of the city and the public. Not later than the tenth day of each month the director shall distribute all moneys deposited in the trust fund during the preceding month to the city which levied the tax. Such funds shall be deposited with the city treasurer of each such city, and all expenditures of funds arising from the trust fund shall be by an appropriation act to be enacted by the governing body of each such city. Expenditures may be made from the fund for any functions authorized in the ordinance or order adopted by the governing body submitting the tax to the voters. If the tax is

repealed, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. The director of the department of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such cities. If any city abolishes the tax, the city shall notify the director of the action at least ninety days before the effective date of the repeal, and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

5. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (insert rate of percent) percent for the purpose of improving the public safety of the city?

☐ YES ☐ NO

If a majority of the votes cast on the proposal are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters, and the repeal is approved by a majority of the qualified voters voting on the question.

6. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by ten percent of the registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the tax shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

100.710. DEFINITIONS. — As used in sections 100.700 to 100.850, the following terms mean:

- (1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;
- (2) "Board", the Missouri development finance board as created by section 100.265;
- (3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;
- (4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;

- (5) "Department", the Missouri department of economic development;
- (6) "Director", the director of the department of economic development;
- (7) "Economic development project":
 - (a) The acquisition of any real property by the board, the eligible industry, or its affiliate;

or

- (b) The fee ownership of real property by the eligible industry or its affiliate; and
 - (c) For both paragraphs (a) and (b) of this subdivision, "economic development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

- (8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project. For an essential industry, a person employed on a full-time basis in an existing job at the economic development project averaging at least thirty-five hours per week may be considered an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

- (9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

- (a) Invest a minimum of fifteen million dollars, or ten million dollars for an office industry, in an economic development project; and

- (b) Create a minimum of one hundred new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo, **or in the case of an approved company for a project for a world headquarters of a business whose primary function is tax return preparation in any home rule city with more than four hundred thousand inhabitants and located in more than one county, create a minimum of one hundred new jobs for eligible employees at the economic development project.** An industry that meets the definition of "essential industry" may be

considered an eligible industry for the purposes of the program authorized by sections 100.700 to 100.850;

(10) "Essential industry", a business that otherwise meets the definition of eligible industry except an essential industry shall:

- (a) Be a targeted industry;
- (b) Be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants;
- (c) Have maintained at least two thousand jobs at the proposed economic development project site each year for a period of four years preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made and during the year in which said application is made;
- (d) For the duration of the certificates, retain at the proposed economic development project site the level of employment that existed at the site in the taxable year immediately preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made; and

(e) Invest a minimum of five hundred million dollars in the economic development project by the end of the third year after the issuance of the certificates under this program;

(11) "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state. For an essential industry, an existing job may be considered a new job for the purposes of the program authorized by sections 100.700 to 100.850;

(12) "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;

(13) "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:

- (a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;
- (b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
- (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;
- (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;
- (e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and
- (f) All other costs of a nature comparable to those described in this subdivision;

(14) "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates;

(15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

100.850. ASSESSMENTS REMITTAL, JOB DEVELOPMENT ASSESSMENT FEE — COMPANY RECORDS AVAILABLE TO BOARD, WHEN — WHEN REMITTED ASSESSMENT CEASES — TAX CREDIT AMOUNT, CAP, CLAIMING CREDIT — REFUNDS. — 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million **nine hundred fifty thousand** dollars annually. **Of such amount, nine hundred fifty thousand dollars shall be reserved for an approved project for a world headquarters of a business whose primary function is tax return preparation that is located in any home rule city with more than four hundred thousand inhabitants and located in more than one county.**

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.

[100.850. ASSESSMENTS REMITTAL, JOB DEVELOPMENT ASSESSMENT FEE — COMPANY RECORDS AVAILABLE TO BOARD, WHEN — WHEN REMITTED ASSESSMENT CEASES — TAX CREDIT AMOUNT, CAP, CLAIMING CREDIT — REFUNDS. — 1. The approved company shall remit to the board a job development assessment fee, not to exceed five percent of the gross wages of each eligible employee whose job was created as a result of the economic development project, or not to exceed ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo, for the purpose of retiring bonds which fund the economic development project.

2. Any approved company remitting an assessment as provided in subsection 1 of this section shall make its payroll books and records available to the board at such reasonable times as the board shall request and shall file with the board documentation respecting the assessment as the board may require.

3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the date the bonds are retired.

4. Any approved company which has paid an assessment for debt reduction shall be allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed against taxes otherwise imposed by chapters 143 and 148, RSMo, except withholding taxes imposed under the provisions of sections 143.191 to 143.265, RSMo, which were incurred during the tax period in which the assessment was made.

5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this section exceed eleven million dollars annually.

6. The director of revenue shall issue a refund to the approved company to the extent that the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved company's income tax.]

135.750. TAX CREDIT FOR QUALIFIED FILM PRODUCTION PROJECTS — APPLICATION — CAP — TRANSFER OF CREDITS. — 1. Beginning January 1, 1999, a taxpayer shall be granted a tax credit against the tax otherwise due pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo, for up to fifty percent of the amount of investment in production or production-related activities in a qualified film production project. As used in this section, the term "taxpayer" means an individual, a partnership, or a corporation as described in section 143.441, 143.471, RSMo, or section 148.370, RSMo, and the term "qualified film production project" means any film production project with an expected in-state expenditure budget in excess of three hundred thousand dollars. Each film production company shall be limited to one qualified film production project per year. Activities qualifying a taxpayer for the tax credit pursuant to this subsection shall be approved by the office of the Missouri film commission and the department of economic development.

2. Taxpayers shall apply for the film production tax credit by submitting an application to the department of economic development, on a form provided by the department. As part of the application, the expected in-state expenditures of the qualified film production project shall be documented. In addition, the application shall include an economic impact statement, showing the economic impact from the activities of the film production project. Such economic impact statement shall indicate the impact on the region of the state in which the film production or production-related activities are located and on the state as a whole.

3. Tax credits certified pursuant to subsection 1 of this section shall not exceed [five hundred thousand] **one million** dollars per taxpayer per year, and shall not exceed a total for all tax credits certified of one million **five hundred thousand** dollars per year. Taxpayers may carry forward unused credits for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

4. Notwithstanding any provision of law to the contrary, any taxpayer may sell, assign, exchange, convey or otherwise transfer tax credits allowed in subsection 1 of this section. The taxpayer acquiring the tax credits may use the acquired credits to offset the tax liabilities otherwise imposed by chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.261, RSMo, or chapter 148, RSMo. Unused acquired credits may be carried forward for up to five tax periods, provided all such credits shall be claimed within ten tax periods following the tax period in which the film production or production-related activities for which the credits are certified by the department occurred.

137.078. DEPRECIATION SCHEDULES FOR TELEVISION BROADCASTING EQUIPMENT, DEFINITIONS — TRUE VALUE IN MONEY, HOW DETERMINED — TABLES. — 1. For purposes of this section, the following terms shall mean:

(1) "Analog equipment", all depreciable items of tangible personal property that are used directly or indirectly in broadcasting television shows and commercials through the use of analog technology;

(2) "Applicable analog fraction", a fraction, the numerator of which is the total number of analog television sets in the United States for the immediately preceding calendar year and the denominator of which is an amount representing the total combined number of analog and digital television sets in the United States for the immediately preceding calendar year. The applicable analog fraction will be determined on an annual basis by the Missouri Broadcasters Association;

(3) "Applicable digital fraction", a fraction, the numerator of which is the total number of digital television sets in the United States for the immediately preceding calendar year and the denominator of which is an amount representing the total combined number of analog and digital television sets in the United States for the immediately preceding calendar year. The applicable digital fraction will be determined on an annual basis by the Missouri Broadcasters Association;

(4) "Applicable analog percentage", the following percentages for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
				1%
2006				1%
2005			25%	1%
2004		50%	25%	1%
2003	75%	50%	25%	1%
2002	75%	50%	25%	1%
2001	75%	50%	25%	1%
2000	75%	50%	25%	1%
1999	75%	50%	25%	1%
1998	75%	50%	25%	1%
Prior	75%	50%	25%	1%

(5) "Digital equipment", all depreciable items of tangible personal property that are used directly or indirectly in broadcasting television shows and commercials through the use of digital technology;

(6) "Television broadcasters", all businesses that own, lease, or operate television broadcasting stations that transmit television shows and commercials and that are required to be licensed by the Federal Communications Commission to provide such services;

(7) "Television broadcasting equipment", both analog equipment and digital equipment.

2. In response to recent action by the Federal Communications Commission, as described by the commission in the fifth report and order, docket number 97-116, for purposes of assessing all items of television broadcasting equipment that are owned and used by television broadcasters for purposes of broadcasting television shows and commercials:

(1) The true value in money of all analog equipment shall be determined by depreciating the historical cost of such property using the depreciation tables provided in subdivision (1) of subsection 3 of this section and multiplying the results by the applicable analog percentage. The result of the second computation is multiplied by the applicable analog fraction to determine the true value in money of the analog equipment; and

(2) The true value in money of all digital equipment shall be determined by depreciating the historical cost of such property using the depreciation tables provided in subdivision (2) of subsection 3 of this section and multiplying the results by the applicable digital fraction to determine the true value in money of the digital equipment.

3. For purposes of subsection 2 of this section, the depreciation tables for determining the fair value in money of television broadcasting equipment are as follows:

(1) For analog equipment, the following depreciation tables will apply for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
2006				65%
2005			65%	45%

2004		65%	45%	30%
2003	65%	45%	30%	20%
2002	45%	30%	20%	10%
2001	30%	20%	10%	5%
2000	20%	10%	5%	5%
1999	10%	5%	5%	5%
1998	5%	5%	5%	5%
Prior	5%	5%	5%	5%

(2) For digital equipment, the following depreciation tables will apply for the following years:

Year of Acquisition	2004 Tax Year	2005 Tax Year	2006 Tax Year	2007 Tax Year
2006				65%
2005			65%	45%
2004		65%	45%	30%
2003	65%	45%	30%	20%
2002	45%	30%	20%	10%
2001	30%	20%	10%	5%
2000	20%	10%	5%	5%
1999	10%	5%	5%	5%
1998	5%	5%	5%	5%
Prior	5%	5%	5%	5%

137.101. CHARITABLE ORGANIZATIONS, EXEMPTION FROM PROPERTY TAXES — ASSESSOR'S DUTIES. — 1. The activities of nationally affiliated fraternal, benevolent, veteran, or service organizations which promote good citizenship, humanitarian activities, or improve the physical, mental, and moral condition of an indefinite number of people [are] or purposes purely charitable within the meaning of subsection 1 of section 6 of article X of the constitution and local assessing authorities may exempt such portion of the real and personal property of such organizations as the assessing authority may determine is utilized in purposes purely charitable from the assessment, levy, and collection of taxes.

2. If, at any time, an assessor finally determines, after any and all hearings or rightful appeals, that personal property, upon which an organization would otherwise owe taxes but for the provisions of subsection 1 of this section or subdivision (5) of section 137.100, is not used for purposes purely charitable, or for purposes described in subdivision (5) of section 137.100, then the assessor shall notify the department of revenue of such final determination within thirty days.

137.115. REAL AND PERSONAL PROPERTY, ASSESSMENT — MAINTENANCE PLAN — ASSESSOR MAY MAIL FORMS FOR PERSONAL PROPERTY — CLASSES OF PROPERTY, ASSESSMENT — PHYSICAL INSPECTION REQUIRED, WHEN, PROCEDURE. — 1. All other laws to the contrary notwithstanding, the assessor or the assessor's deputies in all counties of this state including the city of St. Louis shall annually make a list of all real and tangible personal property taxable in the assessor's city, county, town or district. Except as otherwise provided in subsection 3 of this section and section 137.078, the assessor shall annually assess all personal property at thirty-three and one-third percent of its true value in money as of January first of each calendar year. The assessor shall annually assess all real property, including any new construction and improvements to real property, and possessory interests in real property at the percent of its true value in money set in subsection 5 of this section. The assessor shall annually assess all real property in the following manner: new assessed values shall be determined as of January first of each odd-numbered year and shall be entered in the assessor's books; those same assessed values shall apply in the following even-numbered year, except for new construction and

property improvements which shall be valued as though they had been completed as of January first of the preceding odd-numbered year. The assessor may call at the office, place of doing business, or residence of each person required by this chapter to list property, and require the person to make a correct statement of all taxable tangible personal property owned by the person or under his or her care, charge or management, taxable in the county. On or before January first of each even-numbered year, the assessor shall prepare and submit a two-year assessment maintenance plan to the county governing body and the state tax commission for their respective approval or modification. The county governing body shall approve and forward such plan or its alternative to the plan to the state tax commission by February first. If the county governing body fails to forward the plan or its alternative to the plan to the state tax commission by February first, the assessor's plan shall be considered approved by the county governing body. If the state tax commission fails to approve a plan and if the state tax commission and the assessor and the governing body of the county involved are unable to resolve the differences, in order to receive state cost-share funds outlined in section 137.750, the county or the assessor shall petition the administrative hearing commission, by May first, to decide all matters in dispute regarding the assessment maintenance plan. Upon agreement of the parties, the matter may be stayed while the parties proceed with mediation or arbitration upon terms agreed to by the parties. The final decision of the administrative hearing commission shall be subject to judicial review in the circuit court of the county involved. In the event a valuation of subclass (1) real property within any county with a charter form of government, or within a city not within a county, is made by a computer, computer-assisted method or a computer program, the burden of proof, supported by clear, convincing and cogent evidence to sustain such valuation, shall be on the assessor at any hearing or appeal. In any such county, unless the assessor proves otherwise, there shall be a presumption that the assessment was made by a computer, computer-assisted method or a computer program. Such evidence shall include, but shall not be limited to, the following:

(1) The findings of the assessor based on an appraisal of the property by generally accepted appraisal techniques; and

(2) The purchase prices from sales of at least three comparable properties and the address or location thereof. As used in this paragraph, the word "comparable" means that:

(a) Such sale was closed at a date relevant to the property valuation; and

(b) Such properties are not more than one mile from the site of the disputed property, except where no similar properties exist within one mile of the disputed property, the nearest comparable property shall be used. Such property shall be within five hundred square feet in size of the disputed property, and resemble the disputed property in age, floor plan, number of rooms, and other relevant characteristics.

2. Assessors in each county of this state and the city of St. Louis may send personal property assessment forms through the mail.

3. The following items of personal property shall each constitute separate subclasses of tangible personal property and shall be assessed and valued for the purposes of taxation at the following percents of their true value in money:

(1) Grain and other agricultural crops in an unmanufactured condition, one-half of one percent;

(2) Livestock, twelve percent;

(3) Farm machinery, twelve percent;

(4) Motor vehicles which are eligible for registration as and are registered as historic motor vehicles pursuant to section 301.131, RSMo, and aircraft which are at least twenty-five years old and which are used solely for noncommercial purposes and are operated less than fifty hours per year or aircraft that are home built from a kit, five percent;

(5) Poultry, twelve percent; and

(6) Tools and equipment used for pollution control and tools and equipment used in retooling for the purpose of introducing new product lines or used for making improvements to

existing products by any company which is located in a state enterprise zone and which is identified by any standard industrial classification number cited in subdivision (6) of section 135.200, RSMo, twenty-five percent.

4. The person listing the property shall enter a true and correct statement of the property, in a printed blank prepared for that purpose. The statement, after being filled out, shall be signed and either affirmed or sworn to as provided in section 137.155. The list shall then be delivered to the assessor.

5. All subclasses of real property, as such subclasses are established in section 4(b) of article X of the Missouri Constitution and defined in section 137.016, shall be assessed at the following percentages of true value:

- (1) For real property in subclass (1), nineteen percent;
- (2) For real property in subclass (2), twelve percent; and
- (3) For real property in subclass (3), thirty-two percent.

6. Manufactured homes, as defined in section 700.010, RSMo, which are actually used as dwelling units shall be assessed at the same percentage of true value as residential real property for the purpose of taxation. The percentage of assessment of true value for such manufactured homes shall be the same as for residential real property. If the county collector cannot identify or find the manufactured home when attempting to attach the manufactured home for payment of taxes owed by the manufactured home owner, the county collector may request the county commission to have the manufactured home removed from the tax books, and such request shall be granted within thirty days after the request is made; however, the removal from the tax books does not remove the tax lien on the manufactured home if it is later identified or found. A manufactured home located in a manufactured home rental park, rental community or on real estate not owned by the manufactured home owner shall be considered personal property. A manufactured home located on real estate owned by the manufactured home owner may be considered real property.

7. Each manufactured home assessed shall be considered a parcel for the purpose of reimbursement pursuant to section 137.750, unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, and assessed as a realty improvement to the existing real estate parcel.

8. Any amount of tax due and owing based on the assessment of a manufactured home shall be included on the personal property tax statement of the manufactured home owner unless the manufactured home has been converted to real property in compliance with section 700.111, RSMo, in which case the amount of tax due and owing on the assessment of the manufactured home as a realty improvement to the existing real estate parcel shall be included on the real property tax statement of the real estate owner.

9. The assessor of each county and each city not within a county shall use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide, or its successor publication, as the recommended guide of information for determining the true value of motor vehicles described in such publication. In the absence of a listing for a particular motor vehicle in such publication, the assessor shall use such information or publications which in the assessor's judgment will fairly estimate the true value in money of the motor vehicle.

10. Before the assessor may increase the assessed valuation of any parcel of subclass (1) real property by more than fifteen percent since the last assessment, excluding increases due to new construction or improvements, the assessor shall conduct a physical inspection of such property.

11. If a physical inspection is required, pursuant to subsection 10 of this section, the assessor shall notify the property owner of that fact in writing and shall provide the owner clear written notice of the owner's rights relating to the physical inspection. If a physical inspection is required, the property owner may request that an interior inspection be performed during the

physical inspection. The owner shall have no less than thirty days to notify the assessor of a request for an interior physical inspection.

12. A physical inspection, as required by subsection 10 of this section, shall include, but not be limited to, an on-site personal observation and review of all exterior portions of the land and any buildings and improvements to which the inspector has or may reasonably and lawfully gain external access, and shall include an observation and review of the interior of any buildings or improvements on the property upon the timely request of the owner pursuant to subsection 11 of this section. Mere observation of the property via a "drive-by inspection" or the like shall not be considered sufficient to constitute a physical inspection as required by this section.

13. The provisions of subsections 11 and 12 of this section shall only apply in any county with a charter form of government with more than one million inhabitants.

14. A county or city collector may accept credit cards as proper form of payment of outstanding property tax due. No county or city collector may charge surcharge for payment by credit card which exceeds the fee or surcharge charged by the credit card bank for its service.

15. The provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, shall become effective January 1, 2003, for any taxing jurisdiction which has at least seventy-five percent of the land area of such jurisdiction within a county with a charter form of government with greater than one million inhabitants, and the provisions of this section and sections 137.073, 138.060 and 138.100, RSMo, shall become effective January 1, 2005, for all taxing jurisdictions in this state. Any county in this state may, by an affirmative vote of the governing body of such county, opt into the provisions of this act prior to January 1, 2005.

137.298. CITIES MAY PASS ORDINANCE TO INCLUDE CHARGES FOR OUTSTANDING PARKING TICKETS ON PERSONAL PROPERTY TAX BILL — PERSONAL PROPERTY TAX RECEIPT, ISSUED WHEN — CITIES MAY ENTER INTO AGREEMENTS WITH COUNTY TO INCLUDE OUTSTANDING VEHICLE-RELATED FEES AND FINES ON PERSONAL PROPERTY TAX BILL. — 1. Other provisions of law to the contrary notwithstanding, any city may by ordinance include as a charge on bills issued for personal property taxes any outstanding parking violations issued on any vehicle for which personal property tax is to be paid and, if required by ordinance, such charge shall be collected with and in the same payment as personal property taxes are collected by the collector of revenue of such city. No personal property tax bill shall be considered paid unless all charges for parking violations are also paid in full and the collector of revenue shall not issue a paid personal property receipt until all such charges are paid.

2. Any city or city not within a county may enter into a contract or cooperative agreement with the county governing body and county collector of any county with a charter form of government or any county of the first classification to include as a charge on bills issued for personal property taxes any outstanding vehicle-related fees and fines, including traffic violations, assessed or issued on any vehicle for which personal property tax is to be paid. For the purpose of this section, vehicle-related fees and fines shall include, but not be limited to, traffic violation fines, parking violation fines, towing and vehicle immobilization fees, and any late payment penalties and court costs associated with adjudication or collection of those fines. No personal property tax bill shall be considered paid unless all charges for parking violations and other vehicle-related fees and fines are also paid in full, and the county collector shall not issue a paid personal property tax receipt until all such charges are paid. Any contract or cooperative agreement shall be in writing, signed by the city, county governing body, and county collector, and shall set forth the provisions and terms agreed to by the parties.

137.505. FAILURE TO FILE RETURN — DUTY OF ASSESSOR. — If any person, corporation, partnership or association shall fail to file a return as required by sections 137.485 to 137.550, the assessor shall ascertain the true amount and value of the taxable tangible personal property of such person, corporation, partnership or association on the best information available to him and shall assess said property at [twenty-five] **ten** percent above its value.

143.081. CREDIT FOR INCOME TAX PAID TO ANOTHER STATE. — 1. A resident individual, resident estate, and resident trust shall be allowed a credit against the tax otherwise due pursuant to sections 143.005 to 143.998 for the amount of any income tax imposed for the taxable year by another state of the United States (or a political subdivision thereof) or the District of Columbia on income derived from sources therein and which is also subject to tax pursuant to sections 143.005 to 143.998. [Solely] For purposes of this subsection, the phrase "income tax imposed" shall [include] **be that amount of tax before** any income tax credit allowed by such other state or the District of Columbia [the basis for which is a charitable contribution which qualifies as a charitable deduction from income pursuant to the Internal Revenue Code of 1986, as amended] if the other state or the District of Columbia authorizes a reciprocal benefit for residents of this state.

2. The credit provided pursuant to this section shall not exceed an amount which bears the same ratio to the tax otherwise due pursuant to sections 143.005 to 143.998 as the amount of the taxpayer's Missouri adjusted gross income derived from sources in the other taxing jurisdiction bears to the taxpayer's Missouri adjusted gross income derived from all sources. In applying the limitation of the previous sentence to an estate or trust, Missouri taxable income shall be substituted for Missouri adjusted gross income. If the tax of more than one other taxing jurisdiction is imposed on the same item of income, the credit shall not exceed the limitation that would result if the taxes of all the other jurisdictions applicable to the item were deemed to be of a single jurisdiction.

3. For the purposes of this section, in the case of an S corporation, each resident S shareholder shall be considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S corporation to a state which does not measure the income of shareholders on an S corporation by reference to the income of the S corporation or where a composite return and composite payments are made in such state on behalf of the S shareholders by the S corporation.

4. For purposes of subsection 3 of this section, in the case of an S corporation that is a bank chartered by a state, the office of thrift supervision, or the comptroller of currency, each Missouri resident S shareholder of such out-of-state bank shall qualify for the shareholder's pro rata share of any net tax paid, including a bank franchise tax based on the income of the bank, by such S corporation where bank payment of taxes are made in such state on behalf of the S shareholders by the S bank to the extent of the tax paid.

143.121. MISSOURI ADJUSTED GROSS INCOME. — 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount

deducted exceeds the amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal **taxable** income [taxes] but disallowed [against] **for** Missouri income [taxes] **tax purposes** pursuant to this paragraph [since July 1,] **after June 18, 2002**, may be carried forward and taken against any [loss] **income** on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss.

3. There shall be subtracted from the taxpayer's federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income; [and]

(g) The amount that would have been deducted in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002; and

(h) **For all tax years ending on or after July 1, 2002, with respect to qualified property that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition modification was made under paragraph (c) of subsection 2 of this section, the amount by which addition modification made under paragraph (c) of subsection 2 of this section on qualified property has not been recovered through the additional subtractions provided in paragraph (g) of this subsection.**

4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the modifications provided in section 143.411.

143.241. EMPLOYER'S AND CORPORATE OFFICER'S LIABILITY FOR WITHHELD TAXES — SALE OF BUSINESS, LIABILITIES. — 1. Every employer required to deduct and withhold tax under sections 143.011 to 143.996 is hereby made liable for such tax. For purposes of assessment and collection, any amount required to be withheld and paid over to the director of revenue, and any penalties, interest, and additions to tax with respect thereto, shall be considered the tax of the employer. Any amount of tax actually deducted and withheld under sections 143.011 to 143.996 shall be a special fund in trust for the director of revenue. No employee shall have any right of action against his employer in respect to any money deducted and withheld from his wages and paid over to the director of revenue in compliance or in good faith compliance with sections 143.011 to 143.996.

2. Any officer, director, **or** statutory trustee [or employee] of any corporation, including administratively dissolved corporations, or foreign corporations that have had their certificate of authority revoked, subject to the provisions of sections 143.191 to 143.265, who has the direct control, supervision or responsibility for filing returns and making payment of the amount of tax imposed in accordance with sections 143.191 to 143.265, and who fails to file [and] **or** pay such return with the director of revenue shall be personally assessed for such amounts, including interest, additions to tax and penalties thereon. This assessment shall be imposed only in the event that the assessment on the corporation is final, and such corporation fails to pay such amounts to the director of revenue. Notice shall be given of the director of revenue's intent to make the assessment against such officers, directors, statutory trustees or employees. The personal liability of such officers, directors, statutory trustees or employees as provided in this section shall survive the administrative dissolution of the corporation or, if a foreign corporation, the revocation of the corporation's certificate of authority.

3. If any employer required to withhold and remit tax under sections 143.191 to 143.265 or his successors shall sell all or substantially all of his or their business or shall quit the business, such employer or successor shall file a final return within fifteen days after the date of selling or quitting business.

4. If any employer required to withhold and remit tax under sections 143.191 to 143.265 or his successors shall contract to sell all or substantially all of his or their business, the seller shall request from the director of revenue a statement or certificate as provided in subsection 6 of this section. The seller shall present such statement or certificate to the purchaser prior to consummation of the sale and secure the purchaser's signature thereon as validation of receipt. Failure to comply with this provision shall result in the seller being liable for an additional penalty equal to twenty-five percent of the seller's delinquency at the time of the sale. The provisions of this section to the contrary notwithstanding, this additional penalty shall be the sole liability of the seller and shall not be a liability of the purchaser.

5. Except as provided in subsections 6, 7, and 8 of this section, all successors, if any, shall be required to withhold an amount of the purchase money sufficient to cover the taxes, interest, additions to tax or penalties due and unpaid until such time as the former owner or predecessor, whether immediate or not, shall produce a receipt from the director of revenue showing that the taxes have been paid, or a certificate stating that no taxes are due. If the purchaser of a business shall fail to withhold the purchase money as required by this section and remit at the time of purchase all amounts so withheld to the director to pay all unpaid taxes, interest, additions to tax and penalties due from the former owner or predecessor, the purchaser shall be personally liable for the payment of the taxes, interest, additions to tax and penalties accrued and unpaid by the former owner of the business.

6. The director of revenue shall, notwithstanding the provisions of section 32.057, RSMo, upon written request, furnish within fifteen days from the receipt of such a request by certified mail, return receipt requested, or such other methods as may be mutually agreed upon, to any owner, successor, secured creditor, purchaser, or in the case of a proposed purchaser, if joined in writing by the owner, a statement showing the amount of taxes, interest, additions to tax or penalties due and owing or a certificate showing that no taxes, interest, additions to tax or penalties are due under this chapter, including the date for the last payment for such taxes, interest, additions to tax or penalties as shown by the records of the director of revenue.

7. A secured creditor who shall enforce a lien against a business subject to the provisions of this chapter shall be entitled to obtain from the director of revenue a statement of employer withholding tax due and the status of the employer withholding tax payments from the director of revenue in accordance with subsection 6 of this section. If the director of revenue does not respond within fifteen days from the date of receipt of such request by the secured creditor seeking to enforce its lien, it shall be conclusively presumed that all such employer withholding tax has been paid as to the secured creditor or any successor of the secured creditor, whether such successor be immediate or not. Nothing in this section shall eliminate the liability of the owner of the business owing employer withholding tax from the liability to pay such employer withholding tax. Any purchaser who acquires the business as a result of an enforcement action by a creditor shall be exempt from the liability set forth in subsection 5 of this section, whether such purchaser be immediate or subsequent thereto.

8. Any such creditor who shall enforce a lien against a business subject to the provisions of this section shall be entitled to be paid the principal sums due, all accrued interest to the date of the payment, and the expenses of enforcing the lien of the secured creditor including attorney's fees. The balance, if any, shall be paid to the creditors having a priority interest thereto under the laws of the state of Missouri or the United States of America. Any balance then remaining, up to the amount of the tax, interest, additions to tax and penalties then due, shall be remitted to the director of revenue as provided by this section. Nothing in this section shall affect the priority of any lien filed by the director of revenue against the former owner or predecessor.

9. Mailing of notices or requests, by first class mail, postage prepaid, certified with return receipt requested, or such other methods as may be mutually agreed upon, shall be prima facie evidence that the party to whom it is addressed received the correspondence, notice or request.

143.431. MISSOURI TAXABLE INCOME AND TAX. — 1. The Missouri taxable income of a corporation taxable under sections 143.011 to 143.996 shall be so much of its federal taxable income for the taxable year, with the modifications specified in subsections 2 [and 3] **to 4** of this section, as is derived from sources within Missouri as provided in section 143.451. The tax of a corporation shall be computed on its Missouri taxable income at the rates provided in section 143.071.

2. There shall be added to or subtracted from federal taxable income, the modifications to adjusted gross income provided in section 143.121 and the applicable modifications to itemized deductions provided in section 143.141. There shall be subtracted the federal income tax deduction provided in section 143.171. There shall be subtracted, to the extent included in federal taxable income, corporate dividends from sources within Missouri.

3. (1) If an affiliated group of corporations files a consolidated income tax return for the taxable year for federal income tax purposes and fifty percent or more of its income is derived from sources within this state as determined in accordance with section 143.451, then it may elect to file a Missouri consolidated income tax return. The federal consolidated taxable income of the electing affiliated group for the taxable year shall be its federal taxable income.

(2) So long as a federal consolidated income tax return is filed, an election made by an affiliated group of corporations to file a Missouri consolidated income tax return may be withdrawn or revoked only upon substantial change in the law or regulations adversely changing tax liability under this chapter; or, with permission of the director of revenue upon the showing

of good cause for such action. After such a withdrawal or revocation with respect to an affiliated group, it may not file a Missouri consolidated income tax return for five years thereafter, except with the approval of the director of revenue, and subject to such terms and conditions as he may prescribe.

(3) No corporation which is part of an affiliated group of corporations filing a Missouri consolidated income tax return shall be required to file a separate Missouri corporate income tax return for the taxable year.

(4) For each taxable year an affiliated group of corporations filing a federal consolidated income tax return does not file a Missouri consolidated income tax return, for purposes of computing the Missouri income tax, the federal taxable income of each member of the affiliated group shall be determined as if a separate federal income tax return had been filed by each such member.

(5) The director of revenue may prescribe such regulations not inconsistent with the provisions of this chapter as he may deem necessary in order that the tax liability of any affiliated group of corporations making a Missouri consolidated income tax return, and of each corporation in the group, before, during, and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the Missouri taxable income derived from sources within this state and in order to prevent avoidance of such tax liability.

4. If a net operating loss deduction is allowed for the taxable year, there shall be added to federal taxable income the amount of the net operating loss modification for each loss year as to which a portion of the net operating loss deduction is attributable. As used in this subsection, the following terms mean:

(1) "Loss year", the taxable year in which there occurs a federal net operating loss that is carried back or carried forward in whole or in part to another taxable year;

(2) "Net operating loss deduction", a net operating loss deduction allowed for federal income tax purposes under Section 172 of the Internal Revenue Code of 1986, as amended or a net operating loss deduction allowed for Missouri income tax purposes under paragraph (d) of subsection 2 of section 143.121, but not including any net operating loss deduction that is allowed for federal income tax purposes but disallowed for Missouri income tax purposes under paragraph (d) of subsection 2 of section 143.121;

(3) "Net addition modification", for any taxable year, the amount by which the sum of all required additions to federal taxable income provided in this chapter, except for the net operating loss modification, exceeds the combined sum of the amount of all required subtractions from federal taxable income provided in this chapter;

(4) "Net operating loss modification", an amount equal to the lesser of the amount of the net operating loss deduction attributable to that loss year or the amount by which the total net operating loss in the loss year is less than the sum of:

(a) The net addition modification for that loss year; and

(b) The cumulative net operating loss deductions attributable to that loss year allowed for the taxable year and all prior taxable years.

5. For all tax years ending on or after July 1, 2002, federal taxable income may be a positive or negative amount. Subsection 4 of this section shall be effective for all tax years with a net operating loss deduction attributable to a loss year ending on or after July 1, 2002, and the net operating loss modification shall only apply to loss years ending on or after July 1, 2002.

143.782. DEFINITIONS. — As used in sections 143.782 to 143.788, unless the context clearly requires otherwise, the following terms shall mean and include:

(1) "Court", the supreme court, court of appeals, or any circuit court of the state;

(2) "Debt", any sum due and legally owed to any state agency which has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding

judgment for that sum, court costs as defined in section 488.010, RSMo, fines and fees owed, or any support obligation which is being enforced by the division of family services on behalf of a person who is receiving support enforcement services pursuant to section 454.425, RSMo;

(3) "Debtor", any individual, sole proprietorship, partnership, corporation or other legal entity owing a debt;

(4) "Department", the department of revenue of the state of Missouri;

(5) "Refund", the Missouri income tax refund which the department determines to be due any taxpayer pursuant to the provisions of this chapter. The amount of a refund shall not include any senior citizens property tax credit provided by sections 135.010 to 135.035, RSMo, **unless such refund is being offset for a delinquency or debt relating to individual income tax or a property tax credit**; and

(6) "State agency", any department, division, board, commission, office, or other agency of the state of Missouri, including public community college district.

144.025. TRANSACTIONS INVOLVING TRADE-IN OR REBATE, HOW COMPUTED — EXCEPTIONS — DEFINITIONS — AGRICULTURAL USE, ALLOWANCE. — 1. Notwithstanding any other provisions of law to the contrary, in any retail sale other than retail sales governed by subsections 4 and 5 of this section, where any article on which sales or use tax has been paid, credited, or otherwise satisfied or which was exempted or excluded from sales or use tax is taken in trade as a credit or part payment on the purchase price of the article being sold, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the actual allowance made for the article traded in or exchanged, if there is a bill of sale or other record showing the actual allowance made for the article traded in or exchanged. [Where the article being traded in for credit or part payment is a motor vehicle, trailer, boat, or outboard motor the person trading in the article must be the owner or holder of a properly assigned certificate of ownership.] Where the purchaser of a motor vehicle, trailer, boat or outboard motor receives a rebate from the seller or manufacturer, the tax imposed by sections 144.020 and 144.440 shall be computed only on that portion of the purchase price which exceeds the amount of the rebate, if there is a bill of sale or other record showing the actual rebate given by the seller or manufacturer. Where the trade-in or exchange allowance plus any applicable rebate exceeds the purchase price of the purchased article there shall be no sales or use tax owed. This section shall also apply to motor vehicles, trailers, boats, and outboard motors sold by the owner or holder of the properly assigned certificate of ownership if the seller purchases or contracts to purchase a subsequent motor vehicle, trailer, boat, or outboard motor within one hundred eighty days before or after the date of the sale of the original article and a notarized bill of sale showing the paid sale price is presented to the department of revenue at the time of licensing. A copy of the bill of sale shall be left with the licensing office. Where the subsequent motor vehicle, trailer, boat, or outboard motor is titled more than one hundred eighty days after the sale of the original motor vehicle, trailer, boat, or outboard motor, the allowance pursuant to this section shall be made if the person titling such article establishes that the purchase or contract to purchase was finalized prior to the expiration of the one hundred eighty-day period.

2. As used in this section, the term "boat" includes all motorboats and vessels, as the terms "motorboat" and "vessel" are defined in section 306.010, RSMo.

3. As used in this section, the term "motor vehicle" includes motor vehicles as defined in section 301.010, RSMo, recreational vehicles as defined in section 700.010, RSMo, or a combination of a truck as defined in section 301.010, RSMo, and a trailer as defined in section 301.010, RSMo.

4. The provisions of subsection 1 of this section shall not apply to retail sales of manufactured homes in which the purchaser receives a document known as the "Manufacturer's Statement of Origin" for purposes of obtaining a title to the manufactured home from the department of revenue of this state or from the appropriate agency or officer of any other state.

5. Any purchaser of a motor vehicle or trailer used for agricultural use by the purchaser shall be allowed to use as an allowance to offset the sales and use tax liability towards the purchase of the motor vehicle or trailer any grain or livestock produced or raised by the purchaser. The director of revenue may prescribe forms for compliance with this subsection.

144.083. RETAIL SALES LICENSE REQUIRED FOR ALL COLLECTORS OF TAX — PREREQUISITE TO ISSUANCE OF CITY OR COUNTY OCCUPATION LICENSE — PREREQUISITE FOR SALES AT RETAIL. — 1. The director of revenue shall require all persons who are responsible for the collection of taxes under the provisions of section 144.080 to procure a retail sales license at no cost to the licensee which shall be prominently displayed at his place of business, and the license is valid until revoked by the director or surrendered by the person to whom issued when sales are discontinued. The director shall issue the retail sales license within ten working days following the receipt of a properly completed application. Any person applying for a retail sales license or reinstatement of a revoked sales tax license who owes any tax under sections 144.010 to 144.510 or sections **143.191 to 143.261, RSMo**, must pay the amount due plus interest and penalties before the department may issue the applicant a license or reinstate the revoked license. All persons beginning business subsequent to August 13, 1986, and who are required to collect the sales tax shall secure a retail sales license prior to making sales at retail. Such license may, after ten days' notice, be revoked by the director of revenue only in the event the licensee shall be in default for a period of sixty days in the payment of any taxes levied under section 144.020 or sections **143.191 to 143.261, RSMo**.

2. The possession of a retail sales license shall be a prerequisite to the issuance of any city or county occupation license or any state license which is required for conducting any business where goods are sold at retail. The revocation of a retailer's license by the director shall render the occupational license or the state license null and void.

3. No person responsible for the collection of taxes under section 144.080 shall make sales at retail unless such person is the holder of a valid retail sales license. After all appeals have been exhausted, the director of revenue may notify the county or city law enforcement agency representing the area in which the former licensee's business is located that the retail sales license of such person has been revoked, and that any county or city occupation license of such person is also revoked. The county or city may enforce the provisions of this section, and may prohibit further sales at retail by such person.

144.157. VIOLATIONS IN COLLECTING, PENALTY. — 1. Any person required to collect, truthfully account for and pay over any tax imposed by sections 67.1170 to 67.1180, RSMo, sections 94.800 to 94.825, RSMo, and sections 144.010 to 144.525 and 144.600 to 144.745 who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, or who shall willfully and knowingly overcharge or overcollect such tax with intent to make claim to any such overcharged or overcollected amounts under section 144.190, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over, or overcharged or overcollected.

2. For purposes of this section, the term "person" includes an individual or an officer or employee of any corporation, including an administratively dissolved corporation or a foreign corporation that has had its certificate of authority revoked, or a member or employee of any partnership, who, as such officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.

3. Any officers, directors, or statutory trustees [or employees] of any corporation, including administratively dissolved corporations or foreign corporations that have had their certificate of authority revoked, subject to the provisions of sections 144.010 to 144.745, who has the direct control, supervision or responsibility for filing returns and making payment of the amount of tax imposed in accordance with sections 144.010 to 144.745, and who fails to file such return

[and] or make payment of all taxes due with the director of revenue shall be personally assessed for such amounts, including interest, additions to tax and penalties thereon. This assessment shall be imposed only in the event that the assessment on the corporation is final, and such corporation fails to pay such amounts to the director of revenue. Notice shall be given of the director of revenue's intent to make the assessment against such officers, directors, statutory trustees or employees. The personal liability of such officers, directors, statutory trustees or employees as provided in this section shall survive the administrative dissolution of the corporation or, if a foreign corporation, the revocation of the corporation's certificate of authority.

301.025. PERSONAL PROPERTY TAXES AND FEDERAL HEAVY VEHICLE USE TAX, PAID WHEN — TAX RECEIPT FORMS — FAILURE TO PAY PERSONAL PROPERTY TAX, EFFECT OF, NOTIFICATION REQUIREMENTS, REINSTATEMENT FEE, APPEALS — RULEMAKING, PROCEDURE. — 1. No state registration license to operate any motor vehicle in this state shall be issued unless the application for license of a motor vehicle or trailer is accompanied by a tax receipt for the tax year which immediately precedes the year in which the vehicle's or trailer's registration is due and which reflects that all taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township collector of the county or township in which the applicant's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant or that no such taxes were due or, if the applicant is not a resident of this state and serving in the armed forces of the United States, the application is accompanied by a leave and earnings statement from such person verifying such status **or, if the applicant is an organization described pursuant to subdivision (5) of section 137.100, RSMo, or subsection 1 of section 137.101, RSMo, the application is accompanied by a document, in a form approved by the director, verifying that the organization is registered with the department of revenue or is determined by the internal revenue service to be a tax-exempt entity. If the director of the department of revenue has been notified by the assessor pursuant to subsection 2 of section 137.101, RSMo, that the applicant's personal property is not tax-exempt, then the organization's application shall be accompanied by a statement certified by the county or township collector of the county or township in which the organization's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the organization.** In the event the registration is a renewal of a registration made two or three years previously, the application shall be accompanied by proof that taxes were not due or have been paid for the two or three years which immediately precede the year in which the motor vehicle's or trailer's registration is due. The county or township collector shall not be required to issue a receipt for the immediately preceding tax year until all personal property taxes, including all delinquent taxes currently due, are paid. If the applicant was a resident of another county of this state in the applicable preceding years, he or she must submit to the collector in the county or township of residence proof that the personal property tax was paid in the applicable tax years. Every county and township collector shall give each person a tax receipt or a certified statement of tangible personal property taxes paid. The receipt issued by the county collector in any county of the first classification with a charter form of government which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county, any county of the first classification without a charter form of government with a population of at least one hundred fifty thousand inhabitants which contains part of a city with a population of at least three hundred fifty thousand inhabitants which is located in more than one county and any county of the first classification without a charter form of government with a population of at least one hundred ten thousand but less than one hundred fifty thousand inhabitants shall be determined null and void if the person paying tangible personal property taxes issues or passes a check or other similar sight order which is returned to the collector because the account upon which the check or order was drawn was closed or did

not have sufficient funds at the time of presentation for payment by the collector to meet the face amount of the check or order. The collector may assess and collect in addition to any other penalty or interest that may be owed, a penalty of ten dollars or five percent of the total amount of the returned check or order whichever amount is greater to be deposited in the county general revenue fund, but in no event shall such penalty imposed exceed one hundred dollars. The collector may refuse to accept any check or other similar sight order in payment of any tax currently owed plus penalty or interest from a person who previously attempted to pay such amount with a check or order that was returned to the collector unless the remittance is in the form of a cashier's check, certified check or money order. If a person does not comply with the provisions of this section, a tax receipt issued pursuant to this section is null and void and no state registration license shall be issued or renewed. Where no such taxes are due each such collector shall, upon request, certify such fact and transmit such statement to the person making the request. Each receipt or statement shall describe by type the total number of motor vehicles on which personal property taxes were paid, and no renewal of any state registration license shall be issued to any person for a number greater than that shown on his or her tax receipt or statement except for a vehicle which was purchased without another vehicle being traded therefor, or for a vehicle previously registered in another state, provided the application for title or other evidence shows that the date the vehicle was purchased or was first registered in this state was such that no personal property tax was owed on such vehicle as of the date of the last tax receipt or certified statement prior to the renewal. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms. If electronic data is not available, residents of counties with a township form of government and with township collectors shall present personal property tax receipts which have been paid for the preceding two years when registering under this section.

2. Every county collector in counties with a population of over six hundred thousand and less than nine hundred thousand shall give priority to issuing tax receipts or certified statements pursuant to this section for any person whose motor vehicle registration expires in January. Such collector shall send tax receipts or certified statements for personal property taxes for the previous year within three days to any person who pays the person's personal property tax in person, and within twenty working days, if the payment is made by mail. Any person wishing to have priority pursuant to this subsection shall notify the collector at the time of payment of the property taxes that a motor vehicle registration expires in January. Any person purchasing a new vehicle in December and licensing such vehicle in January of the following year, may use the personal property tax receipt of the prior year as proof of payment.

3. In addition to all other requirements, the director of revenue shall not register any vehicle subject to the heavy vehicle use tax imposed by Section 4481 of the Internal Revenue Code of 1954 unless the applicant presents proof of payment, or that such tax is not owing, in such form as may be prescribed by the United States Secretary of the Treasury. No proof of payment of such tax shall be required by the director until the form for proof of payment has been prescribed by the Secretary of the Treasury.

4. Beginning July 1, 2000, a county or township collector may notify, by ordinary mail, any owner of a motor vehicle for which personal property taxes have not been paid that if full payment is not received within thirty days the collector may notify the director of revenue to suspend the motor vehicle registration for such vehicle. Any notification returned to the collector by the post office shall not result in the notification to the director of revenue for suspension of a motor vehicle registration. Thereafter, if the owner fails to timely pay such taxes the collector may notify the director of revenue of such failure. Such notification shall be on forms designed and provided by the department of revenue and shall list the motor vehicle owner's full name, including middle initial, the owner's address, and the year, make, model and vehicle identification number of such motor vehicle. Upon receipt of this notification the director of revenue may provide notice of suspension of motor vehicle registration to the owner at the owner's last address shown on the records of the department of revenue. Any suspension imposed may remain in

effect until the department of revenue receives notification from a county or township collector that the personal property taxes have been paid in full. Upon the owner furnishing proof of payment of such taxes and paying a twenty dollar reinstatement fee to the director of revenue the motor vehicle or vehicles registration shall be reinstated. In the event a motor vehicle registration is suspended for nonpayment of personal property tax the owner so aggrieved may appeal to the circuit court of the county of his or her residence for review of such suspension at any time within thirty days after notice of motor vehicle registration suspension. Upon such appeal the cause shall be heard de novo in the manner provided by chapter 536, RSMo, for the review of administrative decisions. The circuit court may order the director to reinstate such registration, sustain the suspension of registration by the director or set aside or modify such suspension. Appeals from the judgment of the circuit court may be taken as in civil cases. The prosecuting attorney of the county where such appeal is taken shall appear in behalf of the director, and prosecute or defend, as the case may require.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

SECTION B. EMERGENCY CLAUSE. — The enactment of section 137.078 and the repeal and reenactment of section 143.081 of section A of this act shall become effective January 1, 2005.

Approved July 9, 2004

HB 1099 [HCS HB 1099]

Clarifies sales and use tax exemption eligibility for manufacturing and material recovery plants.

AN ACT to repeal section 144.030, RSMo, and to enact in lieu thereof one new section relating to material recovery operations.

Vetoed July 2, 2004

HB 1177 [SCS HCS HB 1177]

Modifies various provisions related to concentrated animal feeding operations.

AN ACT to repeal sections 640.700, 640.703, 640.710, 640.715, 640.725, 640.730, 640.735, 640.745, 640.750, 640.755, 644.016, and 644.051, RSMo, and to enact in lieu thereof eleven new sections relating to concentrated animal feeding operations.

Vetoed July 6, 2004

HB 1304 [CCS SS#2 SS SCS HS HCS HB 1304]

Revises various laws pertaining to claims for damages and the payment of such claims.

AN ACT to repeal sections 355.176, 408.040, 508.010, 508.040, 508.070, 508.120, 510.263, 516.105, 537.035, 537.067, 538.205, 538.210, 538.220, and 538.225, RSMo, and to enact in lieu thereof sixteen new sections relating to claims for damages and the payment thereof.

Vetoed April 27, 2004

HB 1614 [HCS HB 1614]

Extends until January 1, 2011, the sunset for the Mental Health and Chemical Dependency Insurance Act.

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to the repeal of the expiration date for certain mental health insurance statutes.

Vetoed July 2, 2004

SB 799 [HCS SCS SB 799]

Modifies laws relating to vital records and the disposition of fetal remains.

AN ACT to repeal sections 193.165 and 193.255, RSMo, and to enact in lieu thereof eight new sections relating to miscarriages and stillbirths.

Vetoed July 2, 2004

SB 1081 [CCS HS HCS SS SCS SB 1081]

Creates procedures for filing lawsuits against residential construction contractors.

AN ACT to amend chapter 431, RSMo, by adding thereto eight new sections relating to resolution of disputes concerning alleged defective residential construction.

Vetoed July 6, 2004

SB 1111 [SB 1111]

Allows Grundy County to use certain moneys collected to be used for courtroom renovation and technology.

AN ACT to repeal section 488.429, RSMo, and to enact in lieu thereof one new section relating to law library funds.

Vetoed July 2, 2004

SB 1304 [SCS SB 1304]

Authorizes districts providing emergency services to reimbursement of at least 50% from the special allocation fund.

AN ACT relating to reimbursement from the special allocation fund for emergency services.

Vetoed July 2, 2004

PROPOSED AMENDMENTS TO THE CONSTITUTION OF MISSOURI

August 3, 2004

Proposes a constitutional amendment to allow gambling on the White River in Rockaway Beach.

CONSTITUTIONAL AMENDMENT NO. 1 — (Proposed by Initiative Petition) Shall the Missouri Constitution be amended to authorize floating gambling facilities on or adjacent to the White River in Rockaway Beach, Missouri, to be licensed and regulated consistent with all other floating facilities in the State of Missouri, with fifty percent of the state revenues generated in the current year to be used for uniform salary supplement grants to all high quality teachers employed in priority schools, and the remaining state revenues generated in the current year to be distributed to all priority school districts on a per pupil basis for capital improvements to education facilities? This constitutional amendment will generate annual direct gaming revenue ranging from \$39.9 to \$49.0 million for the state and \$10.2 to \$12.4 million for the local government, subject to local voter approval and licensing by the State Gaming Commission. The amount of indirect revenue or expense, if any, is unknown.

SECTION

39(g). Gambling authorized on the White River.

Be it resolved by the people of the State of Missouri that the Constitution be amended:

Article III of the Missouri Constitution is hereby amended by adding one new section thereto, to be known as section 39(g), to read as follows:

SECTION 39(g). GAMBLING AUTHORIZED ON THE WHITE RIVER. — Gambling authorized on the White River – There is authorized to be conducted on floating facilities upon the White River within the city limits of Rockaway Beach, Missouri, which shall include artificial spaces that contain water and that are within 1000 feet of the closest edge of the main channel of such river, games and contests of skill and games and contests of chance. Any such floating facility shall be licensed and regulated consistent with all other floating facilities licensed and regulated in the State of Missouri. All state revenues derived from the conduct of all gaming activities on any such floating facilities as are now or hereafter authorized by this Section 39(g) shall not be included within the definition of "total state revenues" in section 17 of article X of this constitution, and shall stand appropriated without legislative action to The State Board of Education, Department of Elementary and Secondary Education, and shall be expended and used annually by The State Board of Education, Department of Elementary and Secondary Education, solely as follows: Fifty percent of the moneys so derived in the current year shall be used to fund uniform salary supplement grants to all high quality teachers employed in priority schools, and the remaining moneys so derived in the current year shall be distributed to all priority school districts on a per pupil distribution basis for the purpose of capital improvements to education facilities in such priority school districts.

SENATE JOINT RESOLUTION 29 [SJR 29]

CONSTITUTIONAL AMENDMENT NO. 2 — (Proposed by the Ninety-second General Assembly, Second Regular Session) Shall the Missouri Constitution be amended so that to be valid and recognized in this state, a marriage shall exist only between a man and a woman? The estimated fiscal impact of this proposed measure to state and local governments is \$0.

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment to the Constitution of Missouri relating to marriage.

SECTION

- A. Enacting clause.
- 33. Marriage, validity and recognition.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2004, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article 1 of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Article 1, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 33, to read as follows:

SECTION 33. MARRIAGE, VALIDITY AND RECOGNITION. — **That to be valid and recognized in this state, a marriage shall exist only between a man and a woman.**

HOUSE CONCURRENT RESOLUTION NO. 1 [HCR 1]

BE IT RESOLVED by the members of the House of Representatives of the Ninety-second General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene a joint session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, January 14, 2004, to receive a message from His Honor Ronnie L. White, the Chief Justice of the Supreme Court of the State of Missouri; and

BE IT FURTHER RESOLVED that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform His Honor that the House of Representatives and Senate of the Ninety-second General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that His Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 2 [HCR 2]

BE IT RESOLVED by the members of the House of Representatives of the Ninety-second General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene a joint session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, January 21, 2004, to receive a message from His Excellency, the Honorable Bob Holden, Governor of the State of Missouri; and

BE IT RESOLVED that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-second General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 3 [HCR 3]

BE IT RESOLVED by the members of the House of Representatives of the Ninety-second General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene a joint session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, January 28, 2004, to receive a message from Henry Hungerbeeler, Director of the Missouri Department of Transportation; and

BE IT RESOLVED that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Director of the Missouri Department of Transportation and inform him that the House of Representatives and Senate of the Ninety-second General Assembly, Second Regular Session, are now organized and ready for business and to receive the State of the State of Transportation address, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 10 [HCR 10]

WHEREAS, the Menfro soil series was established in Missouri in Perry County and is named for the town of Menfro where it was first described and mapped. Menfro soils are very deep, well-drained soils formed in layers of silt loam and silty clay loam; and

WHEREAS, over a million acres of Missouri soil in more than forty counties have been identified as Menfro soil. The Menfro soil series consists of soils formed on wooded upland slopes along the Missouri and Mississippi Rivers and their major tributaries; and

WHEREAS, the current State Capitol, Governor's Mansion, the original State Capitol in St. Charles, the Daniel Boone burial site, and much of the upland areas of Kansas City, St. Louis, Jefferson City, Hermann, Hannibal, and Cape Girardeau are located on Menfro soil; and

WHEREAS, the major land uses of Menfro soils are agriculture and woodland productivity. The main agricultural enterprises grown on Menfro soil are feed grains and forages for livestock, grape vineyards, orchards, and other fruit and vegetable crops; and

WHEREAS, in appreciation for this resource and its value in our economy and environment, the state of Missouri should publicly recognize the importance of soils to our state and encourage educators and other science professionals to teach about soil as a natural resource; and

WHEREAS, the existence of man is dependent on six inches of topsoil and the rain or irrigation water that is applied to such soil:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-second General Assembly, Second Regular Session, the Senate concurring therein, hereby designate "Menfro soil" as representing the many fertile soils of the State of Missouri.

HOUSE CONCURRENT RESOLUTION NO. 12 [HCR 12]**AN ACT**

Relating to the designation of Miss Missouri as an official hostess of the State of Missouri.

Be it enacted by the General Assembly of the state of Missouri, as follows:

WHEREAS, the Miss America Organization provides an opportunity for young women in Missouri to compete for the honor of representing the State of Missouri in national competition; and

WHEREAS, the winner of this state's Miss America preliminary, crowned as Miss Missouri, is judged worthy to act as a role model for young women across the State of Missouri; and

WHEREAS, the winner of this state's Miss America preliminary, crowned as Miss Missouri, capably represents the State of Missouri in national competition and devotes countless hours in public appearances throughout the State during her year of service as Miss Missouri:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-second General Assembly, Second Regular Session, the Senate concurring therein, hereby designates Miss Missouri who is our state's representative in the Miss America National Competition as an official hostess for the State of Missouri during her year of service as Miss Missouri:

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved July 2, 2004

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SENATE CONCURRENT RESOLUTION NO. 30 [SCR 30]

BE IT RESOLVED by the Senate of the Ninety-second General Assembly, the House of Representatives concurring therein, that the Missouri Committee on Legislative Research shall prepare and cause to be collated, indexed, printed and bound all acts and resolutions of the Ninety-second General Assembly, Second Regular Session, and shall examine the printed copies and compare them with and correct the same by the original rolls, together with an attestation under the hand of the Revisor of Statutes that she has compared the same with the original rolls in her office and has corrected the same thereby; and

BE IT FURTHER RESOLVED that the size and quality of the paper and binding shall be substantially the same as used in prior session laws and the size and style of type shall be determined by the Revisor of Statutes; and

BE IT FURTHER RESOLVED that the Joint Committee on Legislative Research is authorized to print and bind copies of the acts and resolutions of the Ninety-second General Assembly, Second Regular Session, with appropriate indexing; and

BE IT FURTHER RESOLVED that the Revisor of Statutes is authorized to determine the number of copies to be printed.

SENATE CONCURRENT RESOLUTION NO. 32 [HCS SCR 32]

WHEREAS, the teaching of universal themes such as honesty and integrity benefits the community as a whole by accomplishing change in ways that strengthen, support, and reflect the local community's values; and

WHEREAS, having good character demonstrates understanding, caring, and acting upon core ethical values such as honesty, respect and responsibility and is an essential attribute of a successful individual; and

WHEREAS, schools that reach out to families and include them in character-building efforts greatly enhance their chances for success with students; and

WHEREAS, traits such as kindness and caring, respect and responsibility, fairness and honesty are critical to the overall health and safety of a school; and

WHEREAS, a school must be a caring community which motivates and challenges students to have good moral character and requires moral leadership from both staff and students; and

WHEREAS, polls have shown that 90% of those surveyed support the teaching of values, like responsibility, respect, courage, and caring in schools; and

WHEREAS, in 1988, CHARACTER^{plus}, a statewide collaborative effort that reaches more than 600 schools, 25,000 teachers, and 300,000 students, and based on a grass-roots community project in the St. Louis region, was established in Missouri by parents, educators, and business leaders and is now our nation's largest community-wide response to the challenges of character education; and

WHEREAS, in accordance with the Missouri School Improvement Program (MSIP) Standard 6.5, a comprehensive intentional character education process helps schools create a positive climate for learning and promotes teacher and administrative responsibility; and

WHEREAS, in accordance with the MSIP Standard 6.6, a comprehensive intentional character education process provides the strategy to promote and maintain orderliness in schools and creates a safe environment; and

WHEREAS, in accordance with MSIP Standard 6.6, the *CHARACTERplus* process provides an assessment tool that gathers data, provides comprehensive and comparative data reports, and furnishes consultation for analyzing and setting up a yearly plan to modify and improve programs and strategies; and

WHEREAS, in accordance with MSIP Standard 6.7, the *CHARACTERplus* process provides professional development for school character education teams and for the entire school staff as an integral part of the character education process; and

WHEREAS, the principles taught by the *CHARACTERplus* process are consistent with "Goal 4" of the Show-Me Standards, as approved by the Missouri State Board of Education on January 18, 1996, which states, "Students in Missouri public schools will acquire the knowledge and skills to make decisions and act as responsible members of society"; and

WHEREAS, at least fourteen states have passed legislation requiring character education be taught in schools, while an additional fourteen states encourage the teaching of character education; and

WHEREAS, character education initiatives in Missouri have received support from the U.S. Department of Education in the form of federal grants to our schools to support local character education efforts as has the State of Missouri:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Second General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby challenge each school district in our state to develop a character education process that involves school, home, and community, and if it already has such a process in place, reevaluate such process in order to make certain the resources that best benefit the students of this state are being utilized; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for the Commissioner of the Department of Elementary and Secondary Education; and

BE IT FURTHER RESOLVED that the Commissioner of the Department of Elementary and Secondary Education be instructed to copy this resolution and distribute one to each school district for distribution to its school board members.

SENATE CONCURRENT RESOLUTION NO. 33 [SCR 33]

WHEREAS, for many years, residents in the greater St. Louis area enjoyed regular airline service by TWA to and from Ronald Reagan Washington National Airport (DCA); and

WHEREAS, St. Louis is a large market, with over 2.6 million people in the St. Louis Metropolitan Statistical Area, and for the year 2003, the St. Louis-Washington market (not including BWI) ranked 13th among Washington destinations inside the 1,250-mile perimeter with 243,302 passengers; and

WHEREAS, because TWA was the dominant airline in St. Louis, fares were relatively high, especially for business travelers who often traveled on a few days' notice. When American Airlines acquired TWA several years ago, they significantly reduced their presence in St. Louis and service to Washington, D.C. has suffered as a result; and

WHEREAS, American Airlines now operates its DCA to STL services using regional jets with a seating capacity of 50 or less seats, United Airlines operates three daily roundtrips using regional jets between St. Louis and Dulles, and Southwest Airlines only flies to BWI, not to DCA or Dulles; and

WHEREAS, with such a lack of competition for flights to Washington, D.C., Primaris, a new entrant airline, would introduce competition in the market served currently only by American Airlines; and

WHEREAS, Primaris proposes to operate a twice-daily premium service between STL and DCA using Boeing 757 aircraft with 126-seat capacity in a two-by-two configuration for passenger comfort; and

WHEREAS, Primaris will provide this premium service which is equal to or better than the current business class service and will offer fares significantly lower than most coach class fares of American Airlines' commuter affiliates that now conduct DCA-STL operations; and

WHEREAS, while recognizing that the United States Congress has given the federal Department of Transportation authority to grant only a few slot exemptions, given the size of the St. Louis market and the current lack of competition on the DCA-STL route, approval of Primaris Airlines' application is strongly recommended to serve the St. Louis-Washington, D.C. market:

NOW, THEREFORE, BE IT RESOLVED that the members of the Senate of the Ninety-second General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby urge the United States Department of Transportation to grant approval to Primaris Airlines' application in Docket OST 2000-7182 for the operation of twice-daily service between Ronald Reagan Washington National Airport (DCA) and Lambert-St. Louis International Airport (STL); and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copies of this resolution for the Honorable Norman Y. Mineta, Secretary of Transportation, and each member of the Missouri Congressional Delegation.

SENATE CONCURRENT RESOLUTION NO. 34 [SCR 34]

WHEREAS, Missouri's Rehabilitation Services for the Blind is housed within the Department of Social Services; and

WHEREAS, Rehabilitation Services for the Blind is in place to create opportunities for eligible blind and visually impaired persons so that they may attain personal and vocational success; and

WHEREAS, the services provided by Rehabilitation Services for the Blind (RSB) assist people with varying degrees of visual impairment, ranging from those who cannot read regular print to those who are totally blind and serve a vital role for those persons seeking its services; and

WHEREAS, changing the status of Rehabilitation Services for the Blind from one of many "programs" within the Department of Social Services to its own division is necessary:

(1) Because the number of eligible blind and visually-impaired person increases substantially each year; and

(2) To ensure that Rehabilitation Services for the Blind continues to provide the most efficient and beneficial services to eligible blind and visually-impaired persons; and

(3) To ensure that the new director of the Division of Rehabilitation Services for the Blind can maintain better control of the services provided and can continue to receive the appropriate funding from the state of Missouri:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Second General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby request the Governor to authorize by Executive Order the transfer of all duties, functions and responsibilities of Rehabilitation Services for the Blind from "program" status within the Department of Social Services and thereby creating the Division of Rehabilitation Services for the Blind which will raise its level of distinction within the Department; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare a properly inscribed copy of this resolution for the Governor.

SENATE CONCURRENT RESOLUTION NO. 36 [HCS SS SCS SCR 36]

WHEREAS, underage drinking is an issue of concern to the citizens of our state; and

WHEREAS, research indicates teenagers and their parents are not well informed about the legal, social, and other consequences of underage drinking; and

WHEREAS, underage drinking may lead to social disruption, individual impairment and emotional maladjustment with tragic consequences:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-second General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby create a Joint Interim Committee on Underage Drinking; and

BE IT FURTHER RESOLVED that the joint interim committee shall study the current public and private efforts to combat underage drinking, evaluate their effectiveness, and make recommendations to the General Assembly; and

BE IT FURTHER RESOLVED that the joint interim committee be authorized to call upon any department, office, division, or agency of this state to assist in gathering information pursuant to its objective; and

BE IT FURTHER RESOLVED that the joint interim committee herein established shall consist of eight members, of which four shall be members of the Senate appointed by the President Pro Tem of the Senate, of which at least two shall be members of the minority party; and four shall be members of the House of Representatives, of which two shall be appointed by the Speaker of the House of Representatives and two of which shall be members of the minority party appointed by the Minority Floor Leader, with approval of the Speaker of the House of Representatives; and

BE IT FURTHER RESOLVED that the staffs of House Research, Senate Research, and the Committee on Legislative Research shall provide such legal, research, clerical, technical, and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the committee, its members, and any staff personnel assigned to the committee shall receive reimbursement for their actual and necessary expenses incurred in attending meetings of the committee or any subcommittee thereof; and

BE IT FURTHER RESOLVED that the members of the joint interim committee shall be appointed by June 1, 2004; and

BE IT FURTHER RESOLVED that the joint interim committee shall expire on December 31, 2004, and on that same date deliver a report of findings and recommendations to the General Assembly; and

BE IT FURTHER RESOLVED that the Secretary of the Senate be instructed to prepare a properly inscribed copy of this resolution for the President Pro Tem of the Senate and the Speaker of the House of Representatives.

SENATE CONCURRENT RESOLUTION NO. 37 [SCR 37]

WHEREAS, the best way to improve Missouri's schools is to:

- (1) Reinforce local control of schools;
- (2) Demand greater accountability by state and local administrators which will reduce waste and ensure more money goes to classrooms and less to bureaucrats;
- (3) Reduce state and federal regulations that cause the misallocation of resources to fund the wrong priorities and eliminate unnecessary and burdensome regulations that stifle teachers and school districts from improving education;
- (4) Support our teachers by looking for new, innovated and practical ideas that the General Assembly can address to assist teachers in the classroom:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Second General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish the "Joint Interim Committee on Teacher Support, Regulatory Reduction and Accountability"; and

BE IT FURTHER RESOLVED that the Committee shall be composed of ten members, with five members of the Senate to be appointed by the President Pro Tem of the Senate, and

five members of the House of Representatives to be appointed by the Speaker of the House of Representatives, and no more than six members of such committee shall be from the same political party; and

BE IT FURTHER RESOLVED that the Committee shall conduct a comprehensive analysis of the rules and policies concerning the administrative burdens for teachers; identify opportunities that will allow for greater flexibility, innovation, and freedom to improve teaching opportunities and the quality of a classroom education; identify tax credits, resources, support services and funding for those support services and review classroom technology, including replacement and upgrade of computer hardware and software; review classroom liability and discipline issues facing teachers and look at ways to improve alternative schools; and solicit extensive testimony and opinions from teachers on what additional tools, support systems, legislation, training and funding they need to improve Missouri's educational system; and

BE IT FURTHER RESOLVED that the Committee be authorized to hold hearings as it deems advisable, and may solicit any input or information necessary to fulfill its obligations; and

BE IT FURTHER RESOLVED that the staffs of House Research, Senate Research, and the Joint Committee on Legislative Research shall provide such legal, research, clerical, technical, and bill drafting services as the Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the Committee, its members, and any staff personnel assigned to the Committee shall receive reimbursement for their actual and necessary expenses incurred in attending meetings of the Committee or any subcommittee thereof; and

BE IT FURTHER RESOLVED that the Committee report its recommendations and findings to the Missouri General Assembly by January 1, 2005.

SENATE CONCURRENT RESOLUTION NO. 41 [SCS SCR 41]

WHEREAS, the United States Fish and Wildlife Service has mandated that the United States Army Corps of Engineers implement a plan for operating the Missouri River that calls for a "spring rise" and a "summer low flow." This plan would result in an increase in the flow of the Missouri River in the spring when the risk of flooding of bottomland farms is already high. The plan also would result in a reduction of the flow of the Missouri River in the summer of each year, thereby negatively affecting farmers, utilities, and businesses from Omaha to the Gulf of Mexico, purportedly to improve habitat for the pallid sturgeon, an endangered fish; and

WHEREAS, the United States Fish and Wildlife Service has dictated these controversial flow changes primarily to benefit only a short segment of the Missouri River where pallid sturgeon have not even been found in six years of sampling; and

WHEREAS, analyses have shown that low river flows could actually degrade habitat important to the pallid sturgeon in segments of the lower Missouri and Mississippi Rivers where pallid sturgeon have been found in recent years; and

WHEREAS, in the summer months of 2002 and 2003, record low flows on the Missouri River increased transportation costs for Missouri farmers by halting navigation, increased power plant cooling costs for private utilities, increased drinking water treatment costs for public utilities

across the state of Missouri, and caused water quality violations with the temperature in the Missouri River exceeding 90 degrees. Despite the economic harm already experienced by Missourians, the United States Fish and Wildlife Service has unilaterally mandated summer low flows during the next two years that are virtually identical to those experienced in 2002 and 2003; and

WHEREAS, while the United States Fish and Wildlife Service has failed to provide sufficient scientific evidence that proves that their mandated "spring rise" and "summer low flow" will improve habitat for the pallid sturgeon, analysis has shown that their proposal will increase the risk of flooding bottomland farms along the Missouri River, will result in economic harm to public and private utilities, and will risk the jobs of those who rely on the Missouri and Mississippi Rivers for their livelihoods; and

WHEREAS, the so-called "drought conservation measures" under consideration by the United States Army Corps of Engineers for inclusion in the Missouri River Master Manual would take away usable water from Missourians by shifting the storage of more water to upstream reservoirs while decreasing the amount of water available for other designated downstream uses; and

WHEREAS, the Missouri River contributes up to 65 percent of the Mississippi River flow at St. Louis during low-water conditions; and

WHEREAS, reduction of Missouri River flows would result in more frequent and more costly impediments to commerce on the Mississippi River where more than 120 million tons of cargo, which includes 60 percent of the nation's grain harvest, is shipped annually past St. Louis.

WHEREAS, the United States Eighth Circuit Court of Appeals recently affirmed that the dominant functions of the Missouri River Reservoir System are flood control and navigation, with recreation and other interests being secondary uses:

NOW, THEREFORE, BE IT RESOLVED that the members of the Missouri Senate, Ninety-Second General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby respectfully request that the President of the United States direct the United States Fish and Wildlife Service and the United States Army Corps of Engineers to develop a plan for operating the Missouri River Reservoir System that will not increase the risk of flooding for bottomland farmers and will not harm the economy of the Midwestern states by failing to provide adequate flows to meet all designated downstream uses on the Missouri and Mississippi Rivers; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the President of the United States, each member of the Missouri Congressional Delegation, the United States Fish and Wildlife Service, and the United States Army Corps of Engineers.

SENATE CONCURRENT RESOLUTION No. 47 [SS SCR 47]

WHEREAS, Missouri has a long tradition of providing funding for multimodal transportation services; and

WHEREAS, multimodal transportation services are a tool for economic development, mobility and congestion relief; and

WHEREAS, Missouri citizens directly benefit from multimodal transportation services; and

WHEREAS, recent state budget woes have forced personnel cuts, the elimination of promotional funds, and the implementation of a \$5 ticket surcharge to supplement insufficient state appropriations for passenger rail services; and

WHEREAS, other multimodal transportation services, such as MetroLink and OATS, face financial shortfalls during tight budgetary times; and

WHEREAS, mass transit systems are looking into fare increases in order to balance their budgets; and

WHEREAS, total state multimodal program funding for aviation, passenger rail, waterways, motor carrier, and transit has decreased from approximately \$25 million in fiscal year 2000 to \$16 million in fiscal year 2004; and

WHEREAS, there is a strong desire to stabilize and improve multimodal transportation services in Missouri in order to alleviate and enhance the mobility of people, goods, and freight; and

WHEREAS, according to the U.S. Department of Transportation, a multimodal transportation approach offers the promise of:

1. Lowering overall transportation costs by allowing each mode to be used for the portion of the trip to which it is best suited;
 2. Increasing economic productivity and efficiency, thereby enhancing the nation's global competitiveness;
 3. Reducing congestion and the burden on overstressed infrastructure components;
 4. Generating higher returns from public and private infrastructure investments;
 5. Improving mobility for the elderly, disabled, isolated, and economically disadvantaged;
- and
6. Reducing energy consumption and contributing to improved air quality and environmental conditions.

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Second General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby establish the "Joint Interim Committee on Multimodal Transportation Services"; and

BE IT FURTHER RESOLVED that the joint interim committee herein established shall consist of five members of the Senate appointed by the President Pro Tem of the Senate, of which at least two shall be members of the minority party; and five members of the House of Representatives, appointed by the Speaker of the House of Representatives, of which at least two shall be members of the minority party; and

BE IT FURTHER RESOLVED that the Committee shall make a comprehensive analysis of Missouri's multimodal transportation services and shall:

- (1) Create a long-term vision for state supported multimodal transportation services in Missouri;
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- (2) Formulate multimodal transportation policies and strategies that will place Missouri in a proactive position with regard to Missouri's future transportation challenges and opportunities;
- (3) Explore how Missouri can better regulate and connect the various modes of transportation into a united system;
- (4) Provide recommendations of how to reduce dependence on state general revenue support by increasing efficiencies, exploring dedicated funding sources, and by establishing local community support requirements;
- (5) Provide recommendations of how to establish public/private partnerships with railroads to complete infrastructure improvements that will reduce track congestion and improve on-time performance of trains;
- (6) Provide recommendations of how to increase utilization of multimodal services through the stabilization of services, increased promotional efforts, and service improvements; and
- (7) Review and explore any other issues the Committee deems relevant to the issue of improving multimodal transportation services; and

BE IT FURTHER RESOLVED that the Committee be authorized to hold hearings as it deems advisable, and may solicit any input or information necessary to fulfill its obligations; and

BE IT FURTHER RESOLVED that the staffs of House Research, Senate Research, and the Joint Committee on Legislative Research shall provide such legal, research, clerical, technical, and bill drafting services as the Committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the Committee, its members, and any staff personnel assigned to the Committee shall receive reimbursement for their actual and necessary expenses incurred in attending meetings of the Committee or any subcommittee thereof; and

BE IT FURTHER RESOLVED that the appointed members of the joint interim committee be appointed by June 1, 2004; and

BE IT FURTHER RESOLVED that the Committee report its recommendations and findings to the Missouri General Assembly by January 15, 2005, and that the authority of said Committee shall terminate on said date.

SENATE CONCURRENT RESOLUTION No. 51 [SCR 51]

Relating to recognition of the Ellis Fischel Cancer Center.

WHEREAS, on January 11, 1937, Governor Lloyd C. Stark of Missouri in his inaugural address stressed the desirability and importance of a cancer hospital, which should be available to "the humblest citizen"; and

WHEREAS, Senator Michael Kinney of St. Louis introduced a cancer hospital bill to the 59th General Assembly, a measure which was subsequently passed and signed by Governor Stark on May 28, 1937; and

WHEREAS, the bill provided for the erection and operation of the first state cancer hospital in the country and provision for the establishment of diagnostic clinics, and for the

Governor to appoint a State Cancer Commission to supervise the maintenance and operation of the state's cancer program and to appoint a hospital administrator; and

WHEREAS, the cornerstone for this historic state cancer hospital was laid December 9, 1938, and the hospital opened in 1940 as the Ellis Fischel State Cancer Hospital in honor of Dr. Ellis Fischel, a St. Louis surgeon who was a staunch advocate and chairman of the Missouri State Cancer Commission who suffered an early and unfortunate death before the hospital was completed; and

WHEREAS, the Ellis Fischel State Cancer Hospital has a long and historical record of compassionate cancer treatment for the citizenry of Missouri and beyond, and of cancer outreach education and prevention activities that have engaged virtually every county in the State of Missouri; and

WHEREAS, the Ellis Fischel State Cancer Hospital, which has been owned and operated by the State of Missouri under the authority of the Missouri State Cancer Commission for fifty years, was transferred by Governor John Ashcroft from management by the Missouri Department of Health and Senior Services to that of the Curators of the University of Missouri, a sovereign entity of the State of Missouri, on November 1, 1990; and

WHEREAS, this transfer of management and the merger of the highest quality cancer research, education, and treatment programs between the staffs of the Ellis Fischel State Cancer Hospital and the Medical School of the University of Missouri-Columbia, which resulted in renaming the program the Ellis Fischel Cancer Center, has resulted in a State Cancer Hospital that provides research in the causes, prevention, and treatment of cancer of the very highest quality care for Missourians:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Missouri Senate, Ninety-second General Assembly, the House of Representatives concurring therein, unanimously join in extending our recognition of the history and service of the Ellis Fischel Cancer Center as the designated cancer institute of the State of Missouri; and

BE IT FURTHER RESOLVED that this resolution be sent to the governor for his approval or rejection pursuant to the Missouri Constitution.

Approved July 9, 2004

HOUSE CONCURRENT RESOLUTION NO. 5 [HCR 5]

An act by concurrent resolution and pursuant to Article IV, Section 8, to disapprove the final order of rulemaking for the proposed amendment to 1 CSR 10-4.010 relating to State of Missouri Vendor Payroll Deductions, with an emergency clause.

Vetoed February 25, 2004

HOUSE CONCURRENT RESOLUTION NO. 21 [SCS HCR 21]

Poultry Industry Committee and Forestry Utilization Committee

Vetoed July 6, 2004

SENATE CONCURRENT RESOLUTION NO. 26 [HCS SS SCR 26]

Relating to the Forestry Utilization Committee.

Vetoed July 6, 2004

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ABORTION

HB 1136 Enacts the "Disposition of Fetal Remains Act"

ADMINISTRATION, OFFICE OF

SB 1249 Codifies Executive Order 03-27 into statute by expanding the preference given by state bodies to Missouri businesses
HB 0795 Modifies various provisions concerning county government
HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft
HB 1548 Requires state employees be paid at 1 1/2 times their hourly rate for all time worked over 40 hours a week
HB 1613 Authorizes the conveyance of certain pieces of state property

ADMINISTRATIVE LAW

SB 1100 Revises requirements for publishing of administrative rules
HB 1259 Applies Administrative Hearing Commission procedures to motor vehicle dealer license denials
HB 1407 Creates an administrative system for adjudicating certain municipal code violations in St. Louis city
HB 1616 Revises requirements for publishing of administrative rules

ADMINISTRATIVE RULES

SB 0921 Establishes that review hearings to place offenders in administrative segregation are not contested cases
SB 1247 Includes certain pro bono attorneys in legal expense fund
HB 0980 Requires DNR to provide a regulatory impact report for certain rulemaking processes and reasons to deny permits
HB 1616 Revises requirements for publishing of administrative rules
HCR 005 Disapproves the proposed amendment to 1 CSR 10-4.010 relating to the State of Missouri Vendor Payroll Deductions

AGRICULTURE AND ANIMALS

SB 0956 Allows persons operating animal driven vehicles to use lanterns and reflective material during nighttime hours
HB 1115 Creates the "Commonsense Food Consumption Act"
HB 1177 Modifies various provisions related to concentrated animal feeding operations (VETOED)
HB 1192 Modifies state meat inspections to coincide with federal programs
HCR 021 Reauthorizes the Poultry Industry Committee

AGRICULTURE DEPARTMENT

- SB 0740 Modifies various sections pertaining to agriculture programs
SB 1155 Modifies various laws regarding economic development
HB 1177 Modifies various provisions related to concentrated animal feeding operations (VETOED)
HB 1192 Modifies state meat inspections to coincide with federal programs

AIRCRAFT AND AIRPORTS

- SCR 033 Urges the Department of Transportation to grant approval to Primaris Airlines' request to service Lambert Airport

ALCOHOL

- SB 1062 Creates and modifies special licenses available to caterers to serve alcohol at certain functions
SCR 036 Creates a Joint Interim Committee on Underage Drinking

AMBULANCES AND AMBULANCE DISTRICTS

- SB 1304 Districts providing emergency services are entitled to reimbursement of at least 50% from special allocation fund (VETOED)

ANNEXATION

- SB 0987 Changes provisions about water service to annexed areas

APPROPRIATIONS

- HB 1001 Appropriates money for the board of fund commissioners
HB 1002 Appropriations for elementary and secondary education
HB 1003 Appropriations for higher education
HB 1004 Appropriations for the departments of revenue and transportation
HB 1005 Appropriations for the office of administration
HB 1006 Appropriations for the departments of agriculture, natural resources and conservation
HB 1007 Appropriations for the departments of economic development, insurance, and labor and industrial relations
HB 1008 Appropriations for the department of public safety
HB 1009 Appropriations for the department of corrections
HB 1010 Appropriations for the departments of mental health and health
HB 1011 Appropriations for the department of social services
HB 1012 Appropriations for elected officials, the judiciary, public defender and the general assembly
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- HB 1014 Appropriates money for supplemental purposes for the several departments and offices of state government
HB 1021 To appropriate money for planning, expenses, and for capital improvements

ATTORNEY GENERAL, STATE

- SB 0972 Creates a Public Safety Medal of Valor for the state of Missouri
SB 1247 Includes certain pro bono attorneys in legal expense fund

ATTORNEYS

- SB 1247 Includes certain pro bono attorneys in legal expense fund
HB 1511 Enacts the Missouri Uniform Trust Code
HB 1304 Tort Reform (VETOED)

AUDITOR, STATE

- SB 0960 Makes clarifications to the property assessment law
HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft

BANKS AND FINANCIAL INSTITUTIONS

- SB 1086 Restricts lenders from requiring borrowers to obtain home owners insurance exceeding the property's replacement value
SB 1093 Allows political subdivisions and other public entities to invest public funds
SB 1320 Modifies bid process for depositories of state institutions
HB 0904 Repeals the Uniform Commercial Code provisions relating to bulk transfers
HB 0938 Modifies the requirements for annuity contracts
HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft
HB 1253 Modifies insurance laws with respect to reinsurance, liquidation and FAIR Plan limits
HB 1398 Authorizes a bid process for selecting the depository of city funds in Maryville
HB 1617 Makes it unlawful to obstruct a securities investigation

BOARDS, COMMISSIONS, COMMITTEES, COUNCILS

- SB 0901 Changes jurisdiction over underground storage tanks from the Clean Water Commission to the MO Hazardous Waste Management
SB 0962 Athletic trainers shall be licensed, rather than registered
SB 0972 Creates a Public Safety Medal of Valor for the state of Missouri
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- SB 1100 Revises requirements for publishing of administrative rules
- SB 1130 Regional Planning Commission employees may enroll in Missouri Local Government Retirement System in some cases
- SB 1181 Modifies licensure for physical therapists and physical therapy assistants
- SB 1250 Modifies sections of law affecting the Missouri Propane Education and Research Council
- SB 1274 Establishes the Missouri Area Health Education Centers Program
- SCR 026 Urges the creation of an AgroForestry Industrialization Committee
- HB 0795 Modifies various provisions concerning county government
- HB 0869 Modifies various provisions regarding the licensure of veterinarians
- HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft
- HB 0978 Creates the Small Business Regulatory Fairness Board to serve as liaison between state agencies and small
- HB 1433 Authorizes the creation of a watershed improvement district in the Upper White River Basin
- HB 1440 Modifies the Transportation and Highway Patrol Retirement System and rights of Regional Planning Commission employees
- HB 1444 Removes the requirement that a resolution be adopted before a legislative committee may visit any state institution

BOATS AND WATERCRAFT

- SB 1259 Allows certain nonresidents to operate a vessel on the lakes of this state with a temporary boater education permit
- HB 0841 Prohibits use of glass containers on vessels in navigable waterways

BONDS - GENERAL OBLIGATION AND REVENUE

- HB 1321 Establishes additional regulations on neighborhood improvement districts

BUSINESS AND COMMERCE

- SB 0870 Prohibits locating sexually-oriented billboards within one mile of a state highway
 - SB 1249 Codifies Executive Order 03-27 into statute by expanding the preference given by state bodies to Missouri businesses
 - HB 0978 Creates the Small Business Regulatory Fairness Board to serve as liaison between state agencies and small
 - HB 1099 Clarifies sales and use tax exemption eligibility for manufacturing and material recovery plants (VETOED)
 - HB 1288 Pertains to contractual agreements between manufacturers and other merchants
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- HB 1603 Reenacts and authorizes the republication of section 135.766 (Tax Credit for Small Business Guaranty Fees)
HB 1664 Several sections dealing with LLCs, LPs, LLPs, etc, and modifying procedures for registration as one of these

CEMETERIES

- HB 1136 Enacts the "Disposition of Fetal Remains Act"

CHARITIES

- HB 1290 Creates a one dollar check-off for various charities

CHILDREN AND MINORS

- SB 0762 Modifies various provisions relating to foster care and protective services for children
SB 1003 Creates a comprehensive children's mental health service system
SB 1083 Modifies the age limitation for the testing of lead poisoning in children
SCR 036 Creates a Joint Interim Committee on Underage Drinking
HB 1055 Increases the punishment for possession of child pornography to a class D felony
HB 1364 Makes the filing of parenting plans for children over the age of eighteen optional
HB 1453 Enacts and modifies various provisions regarding the state foster care system
HB 1487 Revises the crime of kidnapping by including kidnapping of a child under fourteen years of age

CHIROPRACTORS

- HB 1246 Modifies provisions regarding licensure, record keeping and practice of chiropractors

CITIES, TOWNS AND VILLAGES

- SB 0758 Enables certain cities to submit a guest tax to a vote of the people
SB 1114 Extends the expiration date of a section relating to removal of nuisances
SB 1253 Clarifies the definition of "city" in relation to urban redevelopment
HB 0795 Modifies various provisions concerning county government
HB 0822 Creates requirements for orders and ordinances of political subdivisions relating to amateur radio antennas
HB 0947 Adds Cameron, Boonville & Kirksville to the cities which may order the abatement of weeds or trash when in violation
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- HB 1047 Allows the city councils of certain third class cities to set their salaries by ordinance
- HB 1171 Updates statutes to reflect changes with the development of utility projects without additional regulation by the PSC
- HB 1207 Modifies procedures for formation of certain levee districts
- HB 1398 Authorizes a bid process for selecting the depository of city funds in Maryville
- HB 1456 Authorizes a transient guest tax for tourism purposes and infrastructure improvements in Marston and Matthews

CIVIL PROCEDURE

- SB 0807 Authorizes special motion to dismiss in Strategic Litigation Against Public Participation (SLAPP)
- SB 1081 Permits contractors to resolve lawsuits without litigation (VETOED)
- SB 1211 Modifies provisions regarding courts and court personnel
- HB 1664 Several sections dealing with LLCs, LPs, LLPs, etc, and modifying procedures for registration as one of these

CIVIL RIGHTS

- SB 0807 Authorizes special motion to dismiss in Strategic Litigation Against Public Participation (SLAPP)

CONSERVATION DEPARTMENT

- HB 1209 Names the Hadrosaur dinosaur as the state dinosaur

CONSTITUTIONAL AMENDMENTS

- SJR 029 Amends Constitution to state that only marriages between a man and a woman will be valid in this state

CONSUMER PROTECTION

- SB 1081 Permits contractors to resolve lawsuits without litigation (VETOED)
- HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft
- HB 1403 Regulates amusement rides

CONTRACTS AND CONTRACTORS

- SB 0951 Eliminates the requirement that political subdivisions file a copy of their contracts with certain offices
- SB 1081 Permits contractors to resolve lawsuits without litigation (VETOED)
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- SB 1249 Codifies Executive Order 03-27 into statute by expanding the preference given by state bodies to Missouri businesses
- SB 1320 Modifies bid process for depositaries of state institutions
- HB 1288 Pertains to contractual agreements between manufacturers and other merchants
- HB 1362 Authorizes county planning commissions to accept additional forms of security for certain improvements
- HB 1398 Authorizes a bid process for selecting the depository of city funds in Maryville

COOPERATIVES

- SB 0740 Modifies various sections pertaining to agriculture programs

CORPORATIONS

- SB 1122 Modifies provisions relating to the practice of dentistry
- SB 1394 Modifies various provisions regarding tax collection
- HB 1664 Several sections dealing with LLCs, LPs, LLPs, etc, and modifying procedures for registration as one of these

CORRECTIONS DEPARTMENT

- SB 0921 Establishes that review hearings to place offenders in administrative segregation are not contested cases
- SB 1000 Makes changes to provisions on DNA profiling, including DNA testing of all felony and sexual offenders
- HB 1179 Allows use of court surcharge to pay for housing and other expenses of prisoners
- HB 1631 Eliminates requiring county superintendents of public welfare to provide supervision for parolees

COSMETOLOGY

- HB 1622 Modifies the definition of cosmetology establishment

COUNTIES

- SB 0730 Creates the Missouri Homestead Preservation Act
- SB 0769 Establishes the procedures for disincorporation of a road district in Jasper County
- SB 0951 Eliminates the requirement that political subdivisions file a copy of their contracts with certain offices
- SB 0960 Makes clarifications to the property assessment law
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- SB 1111 Allows Grundy County to use certain moneys collected to be used for courtroom renovation and technology (VETOED)
- SB 1329 Modifies provisions concerning Emergency Services Boards
- HB 0798 Allows certain counties use certain moneys collected to be used for courtroom renovation and technology
- HB 0822 Creates requirements for orders and ordinances of political subdivisions relating to amateur radio antennas
- HB 0833 Creates the Exhibition Center and Recreation Facility District Act
- HB 0895 Allows Jasper County, upon voter petition, to disincorporate any special road district
- HB 0950 Modifies the classification of counties
- HB 0988 Increases membership on political party committees in townships in Jackson County
- HB 1187 Changes the procedure allowing Clay County to operate concession stands at privately operated marinas
- HB 1188 Revises various statutes relating to fees and costs in criminal cases
- HB 1207 Modifies procedures for formation of certain levee districts
- HB 1440 Modifies the Transportation and Highway Patrol Retirement System and rights of Regional Planning Commission employees
- HB 1494 Requires regional recreational district board members in Clay County to be elected

COUNTY GOVERNMENT

- SB 0782 Requires county treasurers to designate an individual to act on his or her behalf if incapacitated
- SB 0951 Eliminates the requirement that political subdivisions file a copy of their contracts with certain offices
- HB 0795 Modifies various provisions concerning county government
- HB 0895 Allows Jasper County, upon voter petition, to disincorporate any special road district
- HB 0950 Modifies the classification of counties
- HB 0994 Extends the expiration date and expands breadth of criminal case surcharge in the 30th Judicial Circuit
- HB 1126 Changes the procedure for detachment from certain watershed districts
- HB 1362 Authorizes county planning commissions to accept additional forms of security for certain improvements
- HB 1377 Increases the expense payments for county planning commission members

COUNTY OFFICIALS

- SB 0730 Creates the Missouri Homestead Preservation Act
- SB 0782 Requires county treasurers to designate an individual to act on his or her behalf if incapacitated
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- SB 1243 Requires public administrators serving as a conservator to have pooled accounts audited annually
- HB 0795 Modifies various provisions concerning county government
- HB 1377 Increases the expense payments for county planning commission members
- HB 1631 Eliminates requiring county superintendents of public welfare to provide supervision for parolees

COURTS

- SB 0807 Authorizes special motion to dismiss in Strategic Litigation Against Public Participation (SLAPP)
- SB 0884 Instructs the revisor of statutes to amend the statutes to reflect certain cases
- SB 1211 Modifies provisions regarding courts and court personnel
- HB 0994 Extends the expiration date and expands breadth of criminal case surcharge in the 30th Judicial Circuit
- HB 1115 Creates the "Commonsense Food Consumption Act"
- HB 1179 Allows use of court surcharge to pay for housing and other expenses of prisoners
- HB 1304 Tort Reform (VETOED)
- HB 1364 Makes the filing of parenting plans for children over the age of eighteen optional

COURTS, JUVENILE

- SB 0762 Modifies various provisions relating to foster care and protective services for children

CREDIT AND BANKRUPTCY

- HB 0916 Revises the crime of identity theft and creates a new crime of trafficking in stolen identities

CREDIT UNIONS

- HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft

CRIMES AND PUNISHMENT

- SB 0992 Changes the definition of containers approved for transporting anhydrous ammonia
- SB 1000 Makes changes to provisions on DNA profiling, including DNA testing of all felony and sexual offenders
- SB 1020 Revises provisions of the Sunshine Law
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- HB 0916 Revises the crime of identity theft and creates a new crime of trafficking in stolen identities
- HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft
- HB 1055 Increases the punishment for possession of child pornography to a class D felony
- HB 1074 Makes it a crime to burn a cross with the intent to intimidate a person or a group of people
- HB 1215 Makes it a Class D felony for an individual who has been civilly committed as a sexual predator to escape
- HB 1487 Revises the crime of kidnapping by including kidnapping of a child under fourteen years of age

CRIMINAL PROCEDURE

- SB 1000 Makes changes to provisions on DNA profiling, including DNA testing of all felony and sexual offenders

DENTISTS

- SB 1122 Modifies provisions relating to the practice of dentistry
- HB 0970 Modifies provisions regarding licensure of dentists and dental hygienists
- HB 1422 Requires permits for dentists administering anesthesia or conscious sedation

DISABILITIES

- SB 1003 Creates a comprehensive children's mental health service system
- SCR 034 Urges the Governor to Create the Division of Rehabilitation Services for the Blind by Executive Order
- HB 0923 Modifies the Missouri Family Trust
- HB 1195 Makes changes to provisions relating to professional registration

DOMESTIC RELATIONS

- HB 1364 Makes the filing of parenting plans for children over the age of eighteen optional

DRUGS AND CONTROLLED SUBSTANCES

- SB 0992 Changes the definition of containers approved for transporting anhydrous ammonia
- SB 1160 Establishes the Prescription Drug Repository Program within the Department of Health and Senior Services
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EASEMENTS AND CONVEYANCES

- SB 0942 Authorizes the conveyance of various parcels of state land
SB 1106 Conveys land to the St. Joseph Museum, Inc.
SB 1107 Conveys land to the St. Joseph School District
SB 1302 Authorizes the Board of Governors of Southwest Missouri State University to convey land
HB 1071 Authorizes a conveyance of various pieces of state property
HB 1613 Authorizes the conveyance of certain pieces of state property

ECONOMIC DEVELOPMENT

- SB 1099 Implements the Tax Credit Accountability Act
SB 1155 Modifies various laws regarding economic development
SB 1331 Revises the definition of "municipality" as it relates to downtown and rural development
HB 1321 Establishes additional regulations on neighborhood improvement districts
HB 1529 Requires a minimum reimbursement for emergency services in a tax increment financing district

ECONOMIC DEVELOPMENT DEPARTMENT

- SB 1099 Implements the Tax Credit Accountability Act
HB 0970 Modifies provisions regarding licensure of dentists and dental hygienists
HB 0985 Revises laws on the practice of real estate
HB 1195 Makes changes to provisions relating to professional registration
HB 1246 Modifies provisions regarding licensure, record keeping and practice of chiropractors
HB 1399 Athletic trainers shall be licensed, rather than registered
HB 1422 Requires permits for dentists administering anesthesia or conscious sedation
HB 1622 Modifies the definition of cosmetology establishment

EDUCATION, ELEMENTARY AND SECONDARY

- SB 0878 Extends experimental tariffs already set by PSC to coincide with new termination date established in the act
SB 0945 Directs the state board to assist and encourage school districts in adopting service-learning programs
SB 0960 Makes clarifications to the property assessment law
SB 0968 Guarantees teachers partial payment of contracts when teachers are laid off in certain cases
SB 1080 Amends certain policies with regard to MAP testing

- SB 1242 Renders alterations to the Kansas City public school retirement system
SCR 032 Relating to character education in public schools
SCR 037 Establishes the Joint Interim Committee on Teacher Support, Regulatory Reduction and Accountability
HB 0996 Adds the frame to the list of items that the Missouri State Highway Patrol must inspect annually on school busses
HB 1070 School districts may adopt emergency preparedness plans in order to use school resources during natural disasters

EDUCATION, HIGHER

- SB 1020 Revises provisions of the Sunshine Law
SB 1091 Alters provisions of the law regarding junior college districts
SB 1274 Establishes the Missouri Area Health Education Centers Program
HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft

ELDERLY

- SB 0730 Creates the Missouri Homestead Preservation Act
SB 1123 Requires the Division of Medical Services to annually recalculate the Medicaid nursing home reimbursement amount
SB 1394 Modifies various provisions regarding tax collection

ELECTIONS

- HB 0988 Increases membership on political party committees in townships in Jackson County

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

- SB 0878 Extends experimental tariffs already set by PSC to coincide with new termination date established in the act
SB 1080 Amends certain policies with regard to MAP testing
SCR 037 Establishes the Joint Interim Committee on Teacher Support, Regulatory Reduction and Accountability
HB 0996 Adds the frame to the list of items that the Missouri State Highway Patrol must inspect annually on school busses
HB 1070 School districts may adopt emergency preparedness plans in order to use school resources during natural disasters

EMERGENCIES

- SB 0788 Exempts persons operating fire equipment during non-emergency functions from possessing a CDL
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- SB 1304 Districts providing emergency services are entitled to reimbursement of at least 50% from special allocation fund (VETOED)
SB 1329 Modifies provisions concerning Emergency Services Boards
HB 1070 School districts may adopt emergency preparedness plans in order to use school resources during natural disasters
HB 1529 Requires a minimum reimbursement for emergency services in a tax increment financing district

EMBLEMS

- HB 1209 Names the Hadrosaur dinosaur as the state dinosaur
HCR 012 Designates Miss Missouri as an official hostess for the State of Missouri

EMPLOYEES - EMPLOYERS

- SB 0966 Establishes requirements a temporary help firm employee must follow before claiming unemployment benefits
SB 1130 Regional Planning Commission employees may enroll in Missouri Local Government Retirement System in some cases
SB 1155 Modifies various laws regarding economic development
HB 1268 Modifies numerous provisions of the Missouri Employment Security Law
HB 1440 Modifies the Transportation and Highway Patrol Retirement System and rights of Regional Planning Commission employees

EMPLOYMENT SECURITY

- HB 1268 Modifies numerous provisions of the Missouri Employment Security Law

ENERGY

- HB 1171 Updates statutes to reflect changes with the development of utility projects without additional regulation by the PSC

ENGINEERS

- HB 1449 Creates the Society of Professional Engineers and Operation Iraqi Freedom special license plate

ENTERPRISE ZONES

- SB 1155 Modifies various laws regarding economic development
SB 1331 Revises the definition of "municipality" as it relates to downtown and rural development
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ENTERTAINMENT, SPORTS AND AMUSEMENTS

- HB 0833 Creates the Exhibition Center and Recreation Facility District Act
HB 0841 Prohibits use of glass containers on vessels in navigable waterways
HB 1187 Changes the procedure allowing Clay County to operate concession stands at privately operated marinas
HB 1399 Athletic trainers shall be licensed, rather than registered
HB 1403 Regulates amusement rides
HB 1494 Requires regional recreational district board members in Clay County to be elected
HB 1508 Requires emblem-use fees received by the Kansas City Chiefs license plate be forwarded to the "Chiefs' Children's Fund"

ENVIRONMENTAL PROTECTION

- SB 0732 States the duties of the Metropolitan Park and Recreation System
SB 0901 Changes jurisdiction over underground storage tanks from the Clean Water Commission to the MO Hazardous Waste Management
SB 1040 Extends and examines various environmental fees
SCR 026 Urges the creation of an AgroForestry Industrialization Committee
SCR 041 Request the President and the Fish & Wildlife Service to develop a new plan for operation on the Missouri River
HB 0980 Requires DNR to provide a regulatory impact report for certain rulemaking processes and reasons to deny permits
HB 1177 Modifies various provisions related to concentrated animal feeding operations (VETOED)
HB 1433 Authorizes the creation of a watershed improvement district in the Upper White River Basin

ESTATES, WILLS AND TRUSTS

- HB 0923 Modifies the Missouri Family Trust
HB 1090 Allows property insurance for real estate transferred by beneficiary deed to automatically continue with the grantee
HB 1511 Enacts the Missouri Uniform Trust Code

EVIDENCE

- SB 0807 Authorizes special motion to dismiss in Strategic Litigation Against Public Participation (SLAPP)

FAMILY LAW

- SJR 029 Amends Constitution to state that only marriages between a man and a woman will be valid in this state
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- HB 1453 Enacts and modifies various provisions regarding the state foster care system

FAMILY SERVICES DIVISION

- SB 0762 Modifies various provisions relating to foster care and protective services for children
SB 1003 Creates a comprehensive children's mental health service system
HB 1453 Enacts and modifies various provisions regarding the state foster care system

FEES

- SB 1040 Extends and examines various environmental fees
HB 0994 Extends the expiration date and expands breadth of criminal case surcharge in the 30th Judicial Circuit
HB 1179 Allows use of court surcharge to pay for housing and other expenses of prisoners

FIRE PROTECTION

- HB 1529 Requires a minimum reimbursement for emergency services in a tax increment financing district

FIREARMS AND FIREWORKS

- SB 1196 Modifies various provisions of law relating to firework regulation

GENERAL ASSEMBLY

- SCR 030 Relating to printing and binding copies of the acts and resolutions of the 92nd General Assembly, 2nd Regular Session
SCR 047 Establishes the Joint Interim Committee on State Supported Passenger Rail Service and Multimodal Transportation
SCR 051 Recognition of the history and service of the Ellis Fischel Cancer Center
HB 1444 Removes the requirement that a resolution be adopted before a legislative committee may visit any state institution
HB 1599 Establishes the Joint Committee on Waste, Fraud, and Abuse
HCR 005 Disapproves the proposed amendment to 1 CSR 10-4.010 relating to the State of Missouri Vendor Payroll Deductions
HCR 012 Designates Miss Missouri as an official hostess for the State of Missouri
HCR 021 Reauthorizes the Poultry Industry Committee

GOVERNOR & LT. GOVERNOR

- SB 0942 Authorizes the conveyance of various parcels of state land
SB 0972 Creates a Public Safety Medal of Valor for the state of Missouri
SB 1106 Conveys land to the St. Joseph Museum, Inc.
SB 1107 Conveys land to the St. Joseph School District
SCR 034 Urges the Governor to Create the Division of Rehabilitation Services
for the Blind by Executive Order
HB 1071 Authorizes a conveyance of various pieces of state property
HB 1613 Authorizes the conveyance of certain pieces of state property

GUARDIANS

- SB 0762 Modifies various provisions relating to foster care and protective
services for children

HEALTH CARE

- SB 0799 Requires the state registrar to issue a certification of stillbirth
(VETOED)
SB 0974 Modifies the State Legal Expense Fund
SB 1003 Creates a comprehensive children's mental health service system
SB 1274 Establishes the Missouri Area Health Education Centers Program
SB 1279 Creates the Missouri Hospital Infection Control Act of 2004
SCR 051 Recognition of the history and service of the Ellis Fischel Cancer
Center
HB 0855 Modifies law regarding insurance coverage for mental health
conditions, chemical dependency and alcoholism
HB 1304 Tort Reform (VETOED)

HEALTH CARE PROFESSIONALS

- SB 0962 Athletic trainers shall be licensed, rather than registered
SB 0974 Modifies the State Legal Expense Fund
SB 1122 Modifies provisions relating to the practice of dentistry
SB 1160 Establishes the Prescription Drug Repository Program within the
Department of Health and Senior Services
SB 1181 Modifies licensure for physical therapists and physical therapy
assistants
SB 1274 Establishes the Missouri Area Health Education Centers Program
SB 1279 Creates the Missouri Hospital Infection Control Act of 2004
HB 0855 Modifies law regarding insurance coverage for mental health
conditions, chemical dependency and alcoholism

HEALTH DEPARTMENT

- SB 0799 Requires the state registrar to issue a certification of stillbirth
(VETOED)
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- SB 1083 Modifies the age limitation for the testing of lead poisoning in children
SB 1160 Establishes the Prescription Drug Repository Program within the
Department of Health and Senior Services
SB 1274 Establishes the Missouri Area Health Education Centers Program
SB 1279 Creates the Missouri Hospital Infection Control Act of 2004
HB 1136 Enacts the "Disposition of Fetal Remains Act"
HB 1427 Modifies the provisions regarding forfeiture of controlled substances
and drug paraphernalia

HEALTH, PUBLIC

- SB 1083 Modifies the age limitation for the testing of lead poisoning in children
SB 1274 Establishes the Missouri Area Health Education Centers Program
SCR 034 Urges the Governor to Create the Division of Rehabilitation Services
for the Blind by Executive Order
HB 1192 Modifies state meat inspections to coincide with federal programs

HIGHER EDUCATION DEPARTMENT

- SB 1302 Authorizes the Board of Governors of Southwest Missouri State
University to convey land

HIGHWAY PATROL

- SB 0859 Allows highway patrol officers to hold positions as school board
members
SB 0899 Amends the school bus inspection law to include the inspection of
frames on school buses
SB 1233 Creates license plates, revises law on salvage title, modifies towing law
and modifies other motor vehicle laws
HB 0960 Designates a portion of U.S. Highway 60 as the Trooper Russell
Harper Memorial Highway
HB 1660 Modifies laws pertaining to accident reports and their disclosure

HISTORIC PRESERVATION

- SB 1172 Authorizes the Secretary of State to open and maintain an archival
facility in St. Louis

HOSPITALS

- SB 0799 Requires the state registrar to issue a certification of stillbirth
(VETOED)
SB 1160 Establishes the Prescription Drug Repository Program within the
Department of Health and Senior Services
SB 1279 Creates the Missouri Hospital Infection Control Act of 2004
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HOUSING

SB 1081 Permits contractors to resolve lawsuits without litigation (VETOED)

INSURANCE - AUTOMOBILE

HB 1285 Modifies law regarding auto insurance with respect to car rental companies and the Transportation Commission

INSURANCE DEPARTMENT

SB 1078 Modifies the criteria used for issuing extraordinary dividends by certain insurance holding companies

SB 1188 Modifies the law regarding annuity contracts

SB 1235 Modifies insurance laws with respect to reinsurance and liquidation

SB 1299 Raises the liability limits on residential insurance policies issued by the FAIR plan from \$100,000 to \$200,000

HB 0855 Modifies law regarding insurance coverage for mental health conditions, chemical dependency and alcoholism

HB 0938 Modifies the requirements for annuity contracts

HB 1182 Allows payment of quarterly tax payments for certain corporations

HB 1198 Modifies the criteria used for issuing extraordinary dividends by certain insurance holding companies

HB 1253 Modifies insurance laws with respect to reinsurance, liquidation and FAIR Plan limits

HB 1291 Restricts lenders from requiring borrowers to obtain homeowners insurance exceeding the replacement value

HB 1614 Creates a sunset date of January 1, 2011 for the Mental Health and Chemical Dependency Insurance Act (VETOED)

INSURANCE - GENERAL

SB 1078 Modifies the criteria used for issuing extraordinary dividends by certain insurance holding companies

SB 1188 Modifies the law regarding annuity contracts

SB 1235 Modifies insurance laws with respect to reinsurance and liquidation

HB 0923 Modifies the Missouri Family Trust

HB 0938 Modifies the requirements for annuity contracts

HB 1198 Modifies the criteria used for issuing extraordinary dividends by certain insurance holding companies

HB 1253 Modifies insurance laws with respect to reinsurance, liquidation and FAIR Plan limits

HB 1285 Modifies law regarding auto insurance with respect to car rental companies and the Transportation Commission

HB 1291 Restricts lenders from requiring borrowers to obtain homeowners insurance exceeding the replacement value

INSURANCE - MEDICAL

- SB 0974 Modifies the State Legal Expense Fund
HB 0855 Modifies law regarding insurance coverage for mental health conditions, chemical dependency and alcoholism
HB 1233 Allows public entities to acquire subrogation rights under a self-insurance plan
HB 1614 Creates a sunset date of January 1, 2011 for the Mental Health and Chemical Dependency Insurance Act (VETOED)

INSURANCE - PROPERTY

- SB 1086 Restricts lenders from requiring borrowers to obtain home owners insurance exceeding the property's replacement value
SB 1299 Raises the liability limits on residential insurance policies issued by the FAIR plan from \$100,000 to \$200,000
HB 1090 Allows property insurance for real estate transferred by beneficiary deed to automatically continue with the grantee
HB 1253 Modifies insurance laws with respect to reinsurance, liquidation and FAIR Plan limits
HB 1291 Restricts lenders from requiring borrowers to obtain homeowners insurance exceeding the replacement value

JACKSON COUNTY

- HB 0795 Modifies various provisions concerning county government

JUDGES

- SB 0807 Authorizes special motion to dismiss in Strategic Litigation Against Public Participation (SLAPP)
SB 1111 Allows Grundy County to use certain moneys collected to be used for courtroom renovation and technology (VETOED)
HB 0798 Allows certain counties use certain moneys collected to be used for courtroom renovation and technology
HB 0994 Extends the expiration date and expands breadth of criminal case surcharge in the 30th Judicial Circuit

KANSAS CITY

- SB 0952 Modifies and adds provisions relating to the salaries of certain Kansas City police officers
SB 1055 Allows a funeral benefit of \$1,000 for special consultants of certain retirement systems of the Kansas City Police Dept
SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws

- HB 1217 Allows a funeral benefit of \$1,000 for special consultants of a certain retirement system of the K.C. police department
- HB 1502 Revises the laws regarding the Kansas City Public School Retirement System

LABOR AND INDUSTRIAL RELATIONS DEPARTMENT

- HB 1268 Modifies numerous provisions of the Missouri Employment Security Law

LAKES, RIVERS AND WATERWAYS

- SCR 041 Request the President and the Fish & Wildlife Service to develop a new plan for operation on the Missouri River
- HB 0841 Prohibits use of glass containers on vessels in navigable waterways

LANDLORDS AND TENANTS

- SB 1211 Modifies provisions regarding courts and court personnel
- HB 0998 Lengthens notice to evict mobile home tenants and requires manufactured home installers to be licensed

LAW ENFORCEMENT OFFICERS AND AGENCIES

- SB 0824 Modifies law regarding the seizure of motor vehicles that have missing or illegible identification numbers
- SB 0920 Makes various changes to the power and authority of the State Water Patrol
- SB 0952 Modifies and adds provisions relating to the salaries of certain Kansas City police officers
- SB 1020 Revises provisions of the Sunshine Law
- SB 1055 Allows a funeral benefit of \$1,000 for special consultants of certain retirement systems of the Kansas City Police Dept
- HB 1074 Makes it a crime to burn a cross with the intent to intimidate a person or a group of people
- HB 1114 Creates special license plates for relatives of firefighters and peace officers killed or injured in line of duty
- HB 1149 Designates a bridge on Interstate 44 in Phelps County as the "Trooper Mike L. Newton Memorial Bridge"
- HB 1179 Allows use of court surcharge to pay for housing and other expenses of prisoners
- HB 1215 Makes it a Class D felony for an individual who has been civilly committed as a sexual predator to escape
- HB 1217 Allows a funeral benefit of \$1,000 for special consultants of a certain retirement system of the K.C. police department
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- HB 1427 Modifies the provisions regarding forfeiture of controlled substances and drug paraphernalia
HB 1487 Revises the crime of kidnapping by including kidnapping of a child under fourteen years of age
HB 1660 Modifies laws pertaining to accident reports and their disclosure

LIABILITY

- SB 0810 Immunity from civil liability for certain landowners owning land adjoining public trails
SB 0974 Modifies the State Legal Expense Fund
SB 1081 Permits contractors to resolve lawsuits without litigation (VETOED)
SB 1247 Includes certain pro bono attorneys in legal expense fund
HB 0916 Revises the crime of identity theft and creates a new crime of trafficking in stolen identities
HB 0947 Adds Cameron, Boonville & Kirksville to the cities which may order the abatement of weeds or trash when in violation
HB 1115 Creates the "Commonsense Food Consumption Act"
HB 1233 Allows public entities to acquire subrogation rights under a self-insurance plan

LIBRARIES AND ARCHIVES

- HB 1347 Creates Secretary of State's Council on Library Development
HB 1363 Creates an Archival Facility for the preservation of public records

LICENSES - DRIVER'S

- SB 1285 Allows certain fee offices to collect the statutory fees for processing motor vehicle transactions

LICENSES - MISCELLANEOUS

- SB 0762 Modifies various provisions relating to foster care and protective services for children
SB 0842 Changes the expiration date of a lodging establishment license
SB 1196 Modifies various provisions of law relating to firework regulation

LICENSES - MOTOR VEHICLE

- SB 0757 Modifies the law for "driveaway operation" and extends the area of operation for certain motor vehicles
SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws
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- SB 1285 Allows certain fee offices to collect the statutory fees for processing motor vehicle transactions
- HB 0928 Revises law on intermediate driver's license with respect to effect of expiration on a weekend or legal holiday
- HB 1114 Creates special license plates for relatives of firefighters and peace officers killed or injured in line of duty
- HB 1167 Allows members of the Missouri Foxtrotting Horse Breed Association to receive special license plates
- HB 1288 Pertains to contractual agreements between manufacturers and other merchants
- HB 1317 Allows members of the Boy Scouts to obtain specialized license plates
- HB 1405 Creates the Missouri Association of State Troopers Emergency Relief Society special license plate
- HB 1449 Creates the Society of Professional Engineers and Operation Iraqi Freedom special license plate
- HB 1508 Requires emblem-use fees received by the Kansas City Chiefs license plate be forwarded to the "Chiefs' Children's Fund"

LICENSES - PROFESSIONAL

- SB 0962 Athletic trainers shall be licensed, rather than registered
- SB 1062 Creates and modifies special licenses available to caterers to serve alcohol at certain functions
- SB 1122 Modifies provisions relating to the practice of dentistry
- SB 1181 Modifies licensure for physical therapists and physical therapy assistants
- HB 0869 Modifies various provisions regarding the licensure of veterinarians
- HB 0970 Modifies provisions regarding licensure of dentists and dental hygienists
- HB 0985 Revises laws on the practice of real estate
- HB 0998 Lengthens notice to evict mobile home tenants and requires manufactured home installers to be licensed
- HB 1195 Makes changes to provisions relating to professional registration
- HB 1246 Modifies provisions regarding licensure, record keeping and practice of chiropractors
- HB 1399 Athletic trainers shall be licensed, rather than registered
- HB 1422 Requires permits for dentists administering anesthesia or conscious sedation
- HB 1622 Modifies the definition of cosmetology establishment

MANUFACTURED HOUSING

- SB 1096 Relating to regulating the installation of manufactured homes
 - HB 0998 Lengthens notice to evict mobile home tenants and requires manufactured home installers to be licensed
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MARRIAGE AND DIVORCE

- SJR 029 Amends Constitution to state that only marriages between a man and a woman will be valid in this state
- HB 1364 Makes the filing of parenting plans for children over the age of eighteen optional

MEDICAID

- SB 1123 Requires the Division of Medical Services to annually recalculate the Medicaid nursing home reimbursement amount

MEDICAL PROCEDURES AND PERSONNEL

- SB 0799 Requires the state registrar to issue a certification of stillbirth (VETOED)

MENTAL HEALTH

- SB 1003 Creates a comprehensive children's mental health service system
- HB 0855 Modifies law regarding insurance coverage for mental health conditions, chemical dependency and alcoholism
- HB 1614 Creates a sunset date of January 1, 2011 for the Mental Health and Chemical Dependency Insurance Act (VETOED)

MENTAL HEALTH DEPARTMENT

- SB 1003 Creates a comprehensive children's mental health service system
- HB 0923 Modifies the Missouri Family Trust

MERCHANDISING PRACTICES

- HB 1285 Modifies law regarding auto insurance with respect to car rental companies and the Transportation Commission

MILITARY AFFAIRS

- HB 1634 Modifies provisions regarding storage of death records and military discharge records

MOTELS AND HOTELS

- HB 1456 Authorizes a transient guest tax for tourism purposes and infrastructure improvements in Marston and Matthews

MOTOR CARRIERS

- SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws

MOTOR VEHICLES

- SB 0757 Modifies the law for "driveaway operation" and extends the area of operation for certain motor vehicles
- SB 0772 Allows certain motor vehicles that stop to load or unload passengers to use alternately flashing warning signals
- SB 0788 Exempts persons operating fire equipment during non-emergency functions from possessing a CDL
- SB 0824 Modifies law regarding the seizure of motor vehicles that have missing or illegible identification numbers
- SB 0899 Amends the school bus inspection law to include the inspection of frames on school buses
- SB 0956 Allows persons operating animal driven vehicles to use lanterns and reflective material during nighttime hours
- SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws
- SB 1285 Allows certain fee offices to collect the statutory fees for processing motor vehicle transactions
- HB 0928 Revises law on intermediate driver's license with respect to effect of expiration on a weekend or legal holiday
- HB 1114 Creates special license plates for relatives of firefighters and peace officers killed or injured in line of duty
- HB 1167 Allows members of the Missouri Foxtrotting Horse Breed Association to receive special license plates
- HB 1259 Applies Administrative Hearing Commission procedures to motor vehicle dealer license denials
- HB 1284 Revises the law regarding salvage vehicles
- HB 1285 Modifies law regarding auto insurance with respect to car rental companies and the Transportation Commission
- HB 1288 Pertains to contractual agreements between manufacturers and other merchants
- HB 1317 Allows members of the Boy Scouts to obtain specialized license plates
- HB 1405 Creates the Missouri Association of State Troopers Emergency Relief Society special license plate
- HB 1660 Modifies laws pertaining to accident reports and their disclosure

NATURAL RESOURCES DEPARTMENT

- SB 0901 Changes jurisdiction over underground storage tanks from the Clean Water Commission to the MO Hazardous Waste Management
- HB 0980 Requires DNR to provide a regulatory impact report for certain rulemaking processes and reasons to deny permits
- HB 1177 Modifies various provisions related to concentrated animal feeding operations (VETOED)
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NOTARY PUBLIC

HB 1193 Revises procedures and requirements for notaries public

NURSING AND BOARDING HOMES

SB 1123 Requires the Division of Medical Services to annually recalculate the Medicaid nursing home reimbursement amount

PARKS AND RECREATION

SB 0732 States the duties of the Metropolitan Park and Recreation System
SB 0810 Immunity from civil liability for certain landowners owning land adjoining public trails
HB 0841 Prohibits use of glass containers on vessels in navigable waterways
HB 1187 Changes the procedure allowing Clay County to operate concession stands at privately operated marinas
HB 1494 Requires regional recreational district board members in Clay County to be elected

PHARMACY

SB 1160 Establishes the Prescription Drug Repository Program within the Department of Health and Senior Services

PHYSICIANS

SB 0974 Modifies the State Legal Expense Fund

PHYSICAL THERAPISTS

SB 1181 Modifies licensure for physical therapists and physical therapy assistants

POLITICAL PARTIES

HB 0988 Increases membership on political party committees in townships in Jackson County

POLITICAL SUBDIVISIONS

SB 0810 Immunity from civil liability for certain landowners owning land adjoining public trails
SB 0960 Makes clarifications to the property assessment law
SB 1020 Revises provisions of the Sunshine Law

- SB 1093 Allows political subdivisions and other public entities to invest public funds
- HB 0822 Creates requirements for orders and ordinances of political subdivisions relating to amateur radio antennas
- HB 0975 Modifies certain provisions governing land trusts
- HB 1321 Establishes additional regulations on neighborhood improvement districts
- HB 1362 Authorizes county planning commissions to accept additional forms of security for certain improvements
- HB 1494 Requires regional recreational district board members in Clay County to be elected

PRISONS AND JAILS

- SB 0921 Establishes that review hearings to place offenders in administrative segregation are not contested cases
- SB 1000 Makes changes to provisions on DNA profiling, including DNA testing of all felony and sexual offenders
- HB 1179 Allows use of court surcharge to pay for housing and other expenses of prisoners
- HB 1188 Revises various statutes relating to fees and costs in criminal cases
- HB 1215 Makes it a Class D felony for an individual who has been civilly committed as a sexual predator to escape
- HB 1631 Eliminates requiring county superintendents of public welfare to provide supervision for parolees

PROPERTY, REAL AND PERSONAL

- SB 0730 Creates the Missouri Homestead Preservation Act
- SB 1012 Modifies the interest provisions for redemption of property
- SB 1114 Extends the expiration date of a section relating to removal of nuisances
- HB 0795 Modifies various provisions concerning county government
- HB 0947 Adds Cameron, Boonville & Kirksville to the cities which may order the abatement of weeds or trash when in violation
- HB 0975 Modifies certain provisions governing land trusts
- HB 0985 Revises laws on the practice of real estate
- HB 1071 Authorizes a conveyance of various pieces of state property
- HB 1090 Allows property insurance for real estate transferred by beneficiary deed to automatically continue with the grantee
- HB 1613 Authorizes the conveyance of certain pieces of state property

PUBLIC OFFICERS

- SB 0972 Creates a Public Safety Medal of Valor for the state of Missouri
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- SB 1196 Modifies various provisions of law relating to firework regulation
SB 1247 Includes certain pro bono attorneys in legal expense fund

PUBLIC RECORDS, PUBLIC MEETINGS

- SB 1020 Revises provisions of the Sunshine Law
SB 1243 Requires public administrators serving as a conservator to have pooled accounts audited annually
HB 1363 Creates an Archival Facility for the preservation of public records
HB 1634 Modifies provisions regarding storage of death records and military discharge records
HB 1660 Modifies laws pertaining to accident reports and their disclosure

PUBLIC SAFETY DEPARTMENT

- SB 0956 Allows persons operating animal driven vehicles to use lanterns and reflective material during nighttime hours
SB 0972 Creates a Public Safety Medal of Valor for the state of Missouri
SB 1000 Makes changes to provisions on DNA profiling, including DNA testing of all felony and sexual offenders
HB 1403 Regulates amusement rides

PUBLIC SERVICE COMMISSION

- SB 0878 Extends experimental tariffs already set by PSC to coincide with new termination date established in the act
SB 1096 Relating to regulating the installation of manufactured homes
HB 1171 Updates statutes to reflect changes with the development of utility projects without additional regulation by the PSC

RAILROADS

- SB 0772 Allows certain motor vehicles that stop to load or unload passengers to use alternately flashing warning signals

RETIREMENT - LOCAL GOVERNMENT

- SB 1130 Regional Planning Commission employees may enroll in Missouri Local Government Retirement System in some cases
HB 1217 Allows a funeral benefit of \$1,000 for special consultants of a certain retirement system of the K.C. police department
HB 1440 Modifies the Transportation and Highway Patrol Retirement System and rights of Regional Planning Commission employees

RETIREMENT - SCHOOLS

- SB 1242 Renders alterations to the Kansas City public school retirement system
HB 1502 Revises the laws regarding the Kansas City Public School Retirement System

RETIREMENT - STATE

- SB 1195 Includes certain prior service of juvenile court personnel to the definition of "juvenile court employee"
HB 1440 Modifies the Transportation and Highway Patrol Retirement System and rights of Regional Planning Commission employees

RETIREMENT SYSTEMS AND BENEFITS - GENERAL

- SB 1055 Allows a funeral benefit of \$1,000 for special consultants of certain retirement systems of the Kansas City Police Dept
SB 1195 Includes certain prior service of juvenile court personnel to the definition of "juvenile court employee"
HB 1217 Allows a funeral benefit of \$1,000 for special consultants of a certain retirement system of the K.C. police department
HB 1440 Modifies the Transportation and Highway Patrol Retirement System and rights of Regional Planning Commission employees

REVENUE DEPARTMENT

- SB 0842 Changes the expiration date of a lodging establishment license
SB 1099 Implements the Tax Credit Accountability Act
SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws
SB 1285 Allows certain fee offices to collect the statutory fees for processing motor vehicle transactions
HB 0833 Creates the Exhibition Center and Recreation Facility District Act
HB 0928 Revises law on intermediate driver's license with respect to effect of expiration on a weekend or legal holiday
HB 1099 Clarifies sales and use tax exemption eligibility for manufacturing and material recovery plants (VETOED)
HB 1114 Creates special license plates for relatives of firefighters and peace officers killed or injured in line of duty
HB 1167 Allows members of the Missouri Foxtrotting Horse Breed Association to receive special license plates
HB 1259 Applies Administrative Hearing Commission procedures to motor vehicle dealer license denials
HB 1284 Revises the law regarding salvage vehicles
HB 1290 Creates a one dollar check-off for various charities
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| HB 1317 | Allows members of the Boy Scouts to obtain specialized license plates |
| HB 1405 | Creates the Missouri Association of State Troopers Emergency Relief Society special license plate |
| HB 1449 | Creates the Society of Professional Engineers and Operation Iraqi Freedom special license plate |
| HB 1508 | Requires emblem-use fees received by the Kansas City Chiefs license plate be forwarded to the "Chiefs' Children's Fund" |

REVISION BILLS

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| SB 0884 | Instructs the revisor of statutes to amend the statutes to reflect certain cases |
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ROADS AND HIGHWAYS

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| SB 0757 | Modifies the law for "driveaway operation" and extends the area of operation for certain motor vehicles |
| SB 0767 | Designates the portion of Interstate 44 within Webster County the Edwin P. Hubble Memorial Highway |
| SB 0769 | Establishes the procedures for disincorporation of a road district in Jasper County |
| SB 0788 | Exempts persons operating fire equipment during non-emergency functions from possessing a CDL |
| SB 0870 | Prohibits locating sexually-oriented billboards within one mile of a state highway |
| SB 1006 | Designates a portion of Missouri Route 364 in St. Louis County as the "Buzz Westfall Memorial Highway" |
| HB 0826 | Designates a portion of Highway A the Laura Ingalls Wilder Memorial Highway |
| HB 0895 | Allows Jasper County, upon voter petition, to disincorporate any special road district |
| HB 0960 | Designates a portion of U.S. Highway 60 as the Trooper Russell Harper Memorial Highway |
| HB 0996 | Adds the frame to the list of items that the Missouri State Highway Patrol must inspect annually on school busses |
| HB 1029 | Designates a portion of Highway J in Lincoln County as the "Veterans Highway" |
| HB 1107 | Allows adjacent property owners to add their property to transportation development districts |
| HB 1149 | Designates a bridge on Interstate 44 in Phelps County as the the "Trooper Mike L. Newton Memorial Bridge" |
| HB 1442 | Designates the Thomas G. Tucker, Jr. Memorial Highway |
| HB 1660 | Modifies laws pertaining to accident reports and their disclosure |
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SAINT LOUIS

- SB 1172 Authorizes the Secretary of State to open and maintain an archival facility in St. Louis
- SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws
- HB 1407 Creates an administrative system for adjudicating certain municipal code violations in St. Louis city

SAINT LOUIS COUNTY

- SB 1006 Designates a portion of Missouri Route 364 in St. Louis County as the "Buzz Westfall Memorial Highway"

SALARIES

- SB 0952 Modifies and adds provisions relating to the salaries of certain Kansas City police officers
- HB 1047 Allows the city councils of certain third class cities to set their salaries by ordinance

SCIENCE AND TECHNOLOGY

- HB 1055 Increases the punishment for possession of child pornography to a class D felony

SEARCH AND SEIZURE

- SB 0920 Makes various changes to the power and authority of the State Water Patrol

SECRETARY OF STATE

- SB 1100 Revises requirements for publishing of administrative rules
- SB 1172 Authorizes the Secretary of State to open and maintain an archival facility in St. Louis
- HB 1193 Revises procedures and requirements for notaries public
- HB 1347 Creates Secretary of State's Council on Library Development
- HB 1363 Creates an Archival Facility for the preservation of public records
- HB 1616 Revises requirements for publishing of administrative rules
- HB 1617 Makes it unlawful to obstruct a securities investigation
- HB 1664 Several sections dealing with LLCs, LPs, LLPs, etc, and modifying procedures for registration as one of these
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SECURITIES

- HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft
HB 1617 Makes it unlawful to obstruct a securities investigation

SOCIAL SERVICES DEPARTMENT

- SB 0762 Modifies various provisions relating to foster care and protective services for children
SB 1003 Creates a comprehensive children's mental health service system
SB 1123 Requires the Division of Medical Services to annually recalculate the Medicaid nursing home reimbursement amount
SCR 034 Urges the Governor to Create the Division of Rehabilitation Services for the Blind by Executive Order

STATE DEPARTMENTS

- SB 1100 Revises requirements for publishing of administrative rules
SB 1196 Modifies various provisions of law relating to firework regulation
SB 1249 Codifies Executive Order 03-27 into statute by expanding the preference given by state bodies to Missouri businesses
SB 1320 Modifies bid process for depositaries of state institutions
HB 0978 Creates the Small Business Regulatory Fairness Board to serve as liaison between state agencies and small
HB 1233 Allows public entities to acquire subrogation rights under a self-insurance plan
HB 1548 Requires state employees be paid at 1 1/2 times their hourly rate for all time worked over 40 hours a week
HB 1599 Establishes the Joint Committee on Waste, Fraud, and Abuse

STATE EMPLOYEES

- HB 1548 Requires state employees be paid at 1 1/2 times their hourly rate for all time worked over 40 hours a week
HB 1599 Establishes the Joint Committee on Waste, Fraud, and Abuse
HCR 005 Disapproves the proposed amendment to 1 CSR 10-4.010 relating to the State of Missouri Vendor Payroll Deductions

STATE TAX COMMISSION

- HB 0795 Modifies various provisions concerning county government
HB 0950 Modifies the classification of counties
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SUNSHINE LAW

SB 1020 Revises provisions of the Sunshine Law

TAX CREDITS

SB 0740 Modifies various sections pertaining to agriculture programs
SB 1099 Implements the Tax Credit Accountability Act
SB 1394 Modifies various provisions regarding tax collection
HB 1603 Reenacts and authorizes the republication of section 135.766 (Tax Credit for Small Business Guaranty Fees)

TAXATION AND REVENUE - GENERAL

SB 0730 Creates the Missouri Homestead Preservation Act
SB 0758 Enables certain cities to submit a guest tax to a vote of the people
SB 1012 Modifies the interest provisions for redemption of property
SB 1099 Implements the Tax Credit Accountability Act
SB 1394 Modifies various provisions regarding tax collection
HB 0833 Creates the Exhibition Center and Recreation Facility District Act
HB 0947 Adds Cameron, Boonville & Kirksville to the cities which may order the abatement of weeds or trash when in violation
HB 0975 Modifies certain provisions governing land trusts
HB 1099 Clarifies sales and use tax exemption eligibility for manufacturing and material recovery plants (VETOED)
HB 1182 Allows payment of quarterly tax payments for certain corporations
HB 1290 Creates a one dollar check-off for various charities
HB 1456 Authorizes a transient guest tax for tourism purposes and infrastructure improvements in Marston and Matthews
HB 1529 Requires a minimum reimbursement for emergency services in a tax increment financing district

TAXATION AND REVENUE - INCOME

SB 1099 Implements the Tax Credit Accountability Act
SB 1394 Modifies various provisions regarding tax collection
HB 0959 Revises banking laws, creates "Missouri Higher Education Deposit Program" and modifies identity theft
HB 1290 Creates a one dollar check-off for various charities
HB 1603 Reenacts and authorizes the republication of section 135.766 (Tax Credit for Small Business Guaranty Fees)

TAXATION AND REVENUE - PROPERTY

SB 0730 Creates the Missouri Homestead Preservation Act
SB 0960 Makes clarifications to the property assessment law

- SB 1394 Modifies various provisions regarding tax collection
- HB 0795 Modifies various provisions concerning county government
- HB 0950 Modifies the classification of counties
- HB 0975 Modifies certain provisions governing land trusts

TAXATION AND REVENUE - SALES AND USE

- SB 0758 Enables certain cities to submit a guest tax to a vote of the people
- SB 1099 Implements the Tax Credit Accountability Act
- SB 1155 Modifies various laws regarding economic development
- SB 1394 Modifies various provisions regarding tax collection
- HB 0833 Creates the Exhibition Center and Recreation Facility District Act
- HB 1099 Clarifies sales and use tax exemption eligibility for manufacturing and material recovery plants (VETOED)
- HB 1456 Authorizes a transient guest tax for tourism purposes and infrastructure improvements in Marston and Matthews

TEACHERS

- SB 0968 Guarantees teachers partial payment of contracts when teachers are laid off in certain cases
- SB 1080 Amends certain policies with regard to MAP testing
- SB 1242 Renders alterations to the Kansas City public school retirement system
- HB 1070 School districts may adopt emergency preparedness plans in order to use school resources during natural disasters

TOURISM

- SB 0758 Enables certain cities to submit a guest tax to a vote of the people
- HB 0833 Creates the Exhibition Center and Recreation Facility District Act
- HB 1209 Names the Hadrosaur dinosaur as the state dinosaur
- HB 1456 Authorizes a transient guest tax for tourism purposes and infrastructure improvements in Marston and Matthews

TRANSPORTATION

- SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws
- SCR 033 Urges the Department of Transportation to grant approval to Primaris Airlines' request to service Lambert Airport
- SCR 047 Establishes the Joint Interim Committee on State Supported Passenger Rail Service and Multimodal Transportation
- HB 1107 Allows adjacent property owners to add their property to transportation development districts
- HB 1442 Designates the Thomas G. Tucker, Jr. Memorial Highway

TRANSPORTATION DEPARTMENT

- SB 0767 Designates the portion of Interstate 44 within Webster County the Edwin P. Hubble Memorial Highway
- SB 0870 Prohibits locating sexually-oriented billboards within one mile of a state highway
- SB 1006 Designates a portion of Missouri Route 364 in St. Louis County as the "Buzz Westfall Memorial Highway"
- SB 1233 Creates license plates, revises law on salvage title, modifies towing law and modifies other motor vehicle laws
- HB 0826 Designates a portion of Highway A the Laura Ingalls Wilder Memorial Highway
- HB 0960 Designates a portion of U.S. Highway 60 as the Trooper Russell Harper Memorial Highway
- HB 1029 Designates a portion of Highway J in Lincoln County as the "Veterans Highway"
- HB 1107 Allows adjacent property owners to add their property to transportation development districts
- HB 1149 Designates a bridge on Interstate 44 in Phelps County as the the "Trooper Mike L. Newton Memorial Bridge"
- HB 1442 Designates the Thomas G. Tucker, Jr. Memorial Highway

UNEMPLOYMENT COMPENSATION

- SB 0966 Establishes requirements a temporary help firm employee must follow before claiming unemployment benefits
- HB 1268 Modifies numerous provisions of the Missouri Employment Security Law

UNIFORM LAWS

- HB 0904 Repeals the Uniform Commercial Code provisions relating to bulk transfers

URBAN REDEVELOPMENT

- SB 1253 Clarifies the definition of "city" in relation to urban redevelopment

UTILITIES

- SB 0878 Extends experimental tariffs already set by PSC to coincide with new termination date established in the act
- HB 0795 Modifies various provisions concerning county government
- HB 1171 Updates statutes to reflect changes with the development of utility projects without additional regulation by the PSC
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VETERANS

- SB 1365 Creates the Veterans' Historical Education Trust Fund and encourages the development of other veterans' programs
- HB 1029 Designates a portion of Highway J in Lincoln County as the "Veterans Highway"
- HB 1634 Modifies provisions regarding storage of death records and military discharge records

VETERINARIANS

- HB 0869 Modifies various provisions regarding the licensure of veterinarians

VICTIMS OF CRIME

- HB 0916 Revises the crime of identity theft and creates a new crime of trafficking in stolen identities

VITAL STATISTICS

- SB 0799 Requires the state registrar to issue a certification of stillbirth (VETOED)
- SB 1279 Creates the Missouri Hospital Infection Control Act of 2004

WASTE - HAZARDOUS

- SB 1040 Extends and examines various environmental fees
- SB 1083 Modifies the age limitation for the testing of lead poisoning in children

WATER PATROL

- SB 0920 Makes various changes to the power and authority of the State Water Patrol
- SB 1259 Allows certain nonresidents to operate a vessel on the lakes of this state with a temporary boater education permit

WATER RESOURCES AND WATER DISTRICTS

- SB 0987 Changes provisions about water service to annexed areas
- HB 1126 Changes the procedure for detachment from certain watershed districts
- HB 1207 Modifies procedures for formation of certain levee districts
- HB 1433 Authorizes the creation of a watershed improvement district in the Upper White River Basin
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